



Public Employees for Environmental Responsibility

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August 8, 2014

Ray McLaughlin
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8/13/14
Cue*

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**RE: FREEDOM OF INFORMATION ACT (FOIA) REQUEST
VIA U.S. MAIL & EMAIL**

Dear FOIA Officers:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests documents related to the Environmental Assessment (EA) for the Draft Fiscal Year 2013-2016 Annual Funding Agreement (AFA) Between the United States Department of the Interior and the Confederated Salish and Kootenai Tribes of the Flathead Reservation (CSKT). Specifically, we request the following:

- Copies of notes of all meetings concerning the preparation of the EA, including but not limited to notes of any workshop or meeting concerning consequences analysis for the proposed action, and notes of any workshop or meeting with the contractor for the EA.

This request is limited to records created on or after September 1, 2010 to the present date and includes all documents that have ever been within your custody or control, whether they exist in agency "working," investigative, retired, electronic mail, or other files currently or at any other time.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:



“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve... All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The records concern the operations or activities of the Government.

The FOIA request is, by its terms, limited to identifiable activities of the Department of the Interior, USFWS.

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.

The requested material concerns environmental compliance for management of public National Wildlife Refuge Land, specifically the National Bison Range. The thrust of our FOIA request is to document the manner in which the National Bison Range will be managed by a party other than USFWS, and how environmental compliance for the proposed AFA was implemented.

3. The release of these requested records will contribute significantly to public understanding of the governmental activities.

The information requested should shed direct light on the environmental compliance process for the new proposed AFA, and whether or not management of the National Bison Range and activities that take place on that Range under the AFA, will remain in compliance with the National Wildlife Refuge mission to “...administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.” (16 U.S.C. § 668(d)(d)). The documents will reveal what other factors beyond this statutory mission are shaping the upcoming AFA.

While a certain segment of the population has an interest in the National Bison Range in particular, the broader public has a keen interest in being assured that activities taking place on their National Wildlife Refuges, and the management of those Refuges, are in compliance with NEPA and the mission of the National Wildlife Refuge System, as stated above.

In addition, since another 18 refuges in 8 states, constituting 80% of the entire National Wildlife Refuge System, are eligible for similar tribal agreements, as are 57 National Parks in 19 states, including parks such as Redwood, Glacier, Voyageurs, Olympic and the Cape Cod National Seashore are eligible for similar AFAs, the public interest in these documents extends far beyond the National Bison Range.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, PEER has repeatedly demonstrated the ability to generate nationwide news coverage concerning activities occurring within the USFWS as well as the evolution of a succession of failed AFA agreements on the National Bison Range.

4. Disclosure would not serve a commercial interest of the requestor.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agencies final response within 20 working days.

Cordially,



Paula Dinerstein
Senior Counsel