



**Public Employees for Environmental Responsibility**

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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 decision to negotiate a 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:

- All correspondence and communications:
  - 1) among FWS Region 6 officers and employees and
  - 2) between Region 6 officers and employees and FWS Headquarters or Department of Interior Headquarters officers and employees

concerning or reflecting the need for, and any directive or guidance or discussion of entering negotiations for, an AFA with the CSKT concerning the National Bison Range or National Bison Range Complex.

- All correspondence and communications which reflect who determined that negotiations for a new AFA with the CSKT should be entered.



This request is limited to records created from September 1, 2010 to the present date. It 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 and the USFWS.

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

The requested material concerns the management of public National Wildlife Refuge Land, specifically the National Bison Range and the means by which decision are made to share management with an Indian Tribe.

*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 manner in which decisions were made to negotiate an AFA for the Bison Range. The documents will likely reveal what factors were taken into consideration in making this decision.

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 carried out in the optimum manner to protect the resources of the National Wildlife Refuge System.

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