



ADVOCATES for the **WEST**
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VIA ELECTRONIC MAIL

May 10, 2019

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Re: Freedom of Information Act Request / Expedited Processing Request

Dear FOIA Officers:

On behalf of Conserve Southwest Utah, I hereby submit this request for information under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). This request pertains to all agency records under the possession and control of the Fish and Wildlife Service (FWS), including the Washington, D.C. Headquarters, the Region 6 office, and any and all other relevant FWS offices. Pursuant to FOIA, Conserve Southwest Utah hereby requests copies of all agency records and other documents referring or relating to the following issues:

1. The Northern Corridor and/or Washington Parkway. This includes but is not limited to records relating to —
 - a. Utah Department of Transportation (UDOT)-BLM Memorandum of Understanding negotiations and revisions;
 - b. the approval or denial of right-of-way (ROW) applications, and any appeals of those decisions;
 - c. consultations with other agencies, such as section 7 consultation; and
 - d. the establishment of a BLM expense account to track ROW work expenses;

2. The UDOT/Dixie Metropolitan Planning Organization's (Dixie MPO) transportation planning/modeling. This includes but is not limited to —
 - a. the transportation planning/modeling software (or reference to id and version) used in any analyses of projected future traffic that the proposed Northern Corridor is intended to relieve;
 - b. the identification and description of—
 - i. all modeled scenarios related to—
 1. the proposed Northern Corridor;
 2. potential alternative Northern Corridor routes inside and outside the Red Cliffs National Conservation Area (NCA); and
 3. any consideration of new and/or modified roads outside the Red Cliffs NCA intended to relieve the perceived traffic congestion that would allegedly be relieved by the proposed Northern Corridor;
 - ii. including—
 1. the datasets associated with each modeled scenario;
 2. a description of the conditions, assumptions, constraints, and other criteria under which each modeled scenario was run; and
 3. the results of all the modelled scenarios
 - c. a description of the criteria and weighting factors used to evaluate each scenario; and
 - d. the analysis results for each scenario and their scores under those criteria.
3. Any issues, concerns, comments, and/or proposed revisions/amendments regarding—
 - a. the Travel Management Plan;
 - b. the Washington County Habitat Conservation Plan (HCP);
 - c. the Red Cliffs Desert Reserve and BLM Red Cliffs NCA;
 - d. the Red Cliffs NCA Plan;
 - e. the St. George Field Office Dixie Resource Management Plan; and
 - f. the Northern Corridor/Washington Parkway.
4. Any and all environmental reviews, analyses or documents prepared under the National Environmental Policy Act (NEPA), including, but not limited to, any and all environmental assessment or categorical exclusion (CE) examining, assessing, or reviewing in any manner whatsoever the proposed Northern Corridor and/or Washington Parkway/Washington Parkway Extension.
5. The proposed Zone 6 addition to the Red Cliffs Desert Reserve and its utility regarding habitat mitigation, including—
 - a. survey records of Zone 6's tortoise population and how it compares to the tortoise population of the proposed Northern Corridor routes;
 - b. what environmental protections currently apply to federal and state-owned land within Zone 6;
 - c. how habitat mitigation credits would be generated and used;
 - d. whether and how the county would provide additional funding for managing Zone 6; and
 - e. whether existing or future expanded recreational uses would be allowed, or restricted, and how that process would occur.
6. Any analysis or decisions considering including the BLM portion of the proposed Zone 6 in the original Red Cliffs Desert Reserve or NCA.

7. SITLA lands in the proposed Zone 6, including but not limited to—
 - a. meeting minutes/communications regarding the Sept. 2017 follow up meeting to the “Storming and Norming” meeting of May 2017;
 - b. any expressions of interest, proposals, options, or offers to buy or develop the SITLA land;
 - c. any pressure to sell and/or develop those lands; and
 - d. records indicating whether—
 - i. BLM and SITLA have considered any potential land exchanges;
 - ii. BLM and SITLA have considered or conducted an appraisal of land values; and
 - iii. BLM and SITLA have considered or communicated regarding SITLA’s fiduciary legal duty to optimize revenue and what discretion, if any, SITLA may have to commit to permanent conservation protection of its lands in the absence of a purchase or land exchange.
8. Formerly private property on the Red Cliffs Desert Reserve that BLM traded for, what it was valued at, and the amount, value, and location of public land that was traded for it.
9. Any potential for the development of private inholdings in the Red Cliffs Desert Reserve and National Conservation Area which could be facilitated by future Northern Corridor/Washington Parkway Access.
10. The total parcels of private land inholdings that were traded out of the reserve, the appraisal amount, and the amount of BLM Land and its location inside and outside the reserve that was traded.
11. The previous BLM and UDOT Environmental Assessment and FONSI/DR for the expansion of the Red Hills Parkway/Skyline Drive.
12. A full and complete copy of the updated 2006 Utility Development Protocols, including Appendices A and B.
13. Any other MOUs or NEPA analysis relevant to any of the preceding categories.
14. Communications from contractors or state, county, and city governments regarding—
 - a. how the Northern Corridor/Washington Parkway would enhance tortoise habitat; and
 - b. implementation of Vision Dixie Principles.
15. Communications with Jacobs Engineering and SWCA consultants, including those communications themselves, that are related to any of the requested record categories, including any drafts and/or final scope of work, contract, and conflict of interest disclaimers.

This FOIA Request is not meant to be exclusive of any other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request. With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), I request that responsive documents be provided electronically in text-searchable, static-image format (PDF), in the best image quality in the agencies’ possession. I further request that reasonable metadata be transmitted along with responsive documents, including but not limited to email attachments, author and recipient information, date and time stamps, and the like.

Defined Terms

The term “records” as used herein includes the original and all non-identical copies, however produced or reproduced, of any written or graphic matter, as well as computer files, including but

not limited to writings, handwritings, drawings, graphs, charts, maps, correspondence, faxes, electronic mail (i.e., emails), attachments to electronic mail, any other electronic communications, notes of telephone conversations or of meetings or conferences, minutes of meetings, interoffice communications, memoranda, studies, analyses, results of investigations, photographs, sound recordings, electronically stored information, other data compilations from which information can be obtained, and any other documentary material, regardless of physical form or characteristics.

The term “relating to” as used herein means addressing, constituting, mentioning, discussing, describing, reflecting, identifying, dealing with, consisting of, explaining, referring to, containing, enumerating, or in any way concerning or pertaining to, in whole or in part, directly or indirectly.

The term “Northern Corridor,” includes the terms “Washington Parkway,” and “Washington Parkway Extension,” and each request of information regarding the Northern Corridor includes a request of information for the others.

Request Time Period and Exclusions

The time period for the agency records requested above is limited to the following:

1. For Paragraph 1, the time period is limited to September 2011 through the date the agency begins its search into the matter.
2. For Paragraph 2, the time period is limited to 2011 through the date the agency begins its search into the matter.
3. For Paragraph 3—
 - a. subparagraph a, the time period is limited to 2009 through the date the agency begins its search into the matter.
 - b. subparagraphs b–f, the time period is limited to 2015 through the date the agency begins its search into the matter.
4. For Paragraph 4, the time period is limited to September 2012 through the date the agency begins its search into the matter.
5. For Paragraph 5, the time period is limited to November 2016 through the date the agency begins its search into the matter.
6. For Paragraph 6, the time period is limited to 1995 through the date the agency begins its search into the matter.
7. For Paragraph 7, the time period is limited to November 2016 through the date the agency begins its search into the matter.
8. For Paragraph 8, the time period is limited to January 1995 through the date the agency begins its search into the matter.
9. For Paragraph 9, the time period is limited to January 2017 through the date the agency begins its search into the matter.
10. For Paragraph 10, the time period is limited to January 1995 through the date the agency begins its search into the matter.
11. For Paragraph 11, the time period is limited to January 2006 through the date the agency begins its search into the matter.
12. For Paragraph 12, the time period is limited to January 2005 through 2007.
13. For Paragraph 13, the time period is limited to January 2009 through the date the agency begins its search into the matter.

14. For Paragraph 14—
- a. subparagraph a, the time period is limited to November 2016 through the date the agency begins its search into the matter; and
 - b. subparagraph b, the time period is limited to January 2007 through the date the agency begins its search into the matter.
15. For Paragraph 15, the time period is limited to January 2017 through the date the agency begins its search into the matter.

In the interest of efficiency and saving government resources, we would like to exempt the following documents from this request, so long as the publication date and page count is identical to your records.

<u>Document Name</u>	<u>Publication Date</u>	<u>Pages</u>
Washington County application for R-O-W to BLM	Jan 28,2013	9
WASHINGTON COUNTY, UTAH IBLA 2013-173	August 18, 2014	16
IBLA -County appeals BLM RMP Asks for EIS	February 2017	37
MOU between Utah Department of Transportation and the US Department of the Interior Bureau of Land Management for the Purpose of Preparing an Environmental Impact Statement for the Northern Corridor Project	Signed April 11, 2019	12
Red Hills Pkwy. Flyovers “White Paper”	Released to public on April 17, 2019	2
Washington Parkway Cost/ Benefit Study	May 16, 2011	33
Washington Parkway Study: Integration of East-West Transportation Needs with Conservation Objectives for the Desert Tortoise in Washington County, UT	September 2012	146
2015-2040 Regional Transportation Plan, Dixie Metropolitan Planning Organization	June 17, 2015	78
2011-2040 Regional Transportation Plan	June 1, 2011	46
FROM FWS to James J. Eardley, Chairman Washington County Commission Vision Dixie Steering Committee	June 4, 2007	2
Revised Recovery Plan for the Mojave Population of the Desert Tortoise	Approved May 6, 2011	246
Red Hills Parkway EA and Draft Section 4(f) Evaluation	November 2007	340

FOIA Response

Under FOIA, the Agency must make a determination on this request within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). A determination consists of a statement whether the agency will comply with request, the reasons therefore, and informs the requester of the right to appeal an adverse decision. Please forward currently available records as soon as possible and others as they become available.

If you have questions as to the scope of this request, please feel free to contact me. If you believe any portion of this request is exempt from disclosure under FOIA, please segregate that portion, and provide a detailed description of each withheld document, the legal basis for withholding such document, and the reasons for asserting such a claim. Specifically, please provide an exemption log identifying each document for which the exemption is claimed, together with the following information: date, sender, recipient, type (e.g. letter, memorandum, telegram, chart, photograph, etc.), subject matter of the document, the basis on which exemption is claimed, and the paragraph(s) or subparagraph(s) of this request to which the document responds. FOIA provides that if only a portion of a record is exempt from release, all reasonably segregable portions shall be provided. Thus, if recipients assert that a portion of a record that I have requested is exempt, please provide me with a copy of the remainder of the record and provide in the exemption log the information specified above for the portion being treated as exempt. If Recipients assert that the exempt portions cannot be reasonably redacted, please state in detail the reasons for that assertion.

Request for a Fee Waiver

Conserve Southwest Utah (CSU) respectfully requests a waiver of any costs or fees related to this request under 5 U.S.C. § 552(a)(4)(A)(iii) because the subject of the requested governmental records has a direct connection with identifiable government activities, the information requested is in the public interest, it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not made in CSU's commercial or economic interest.

CSU is a non-profit organization exempt from taxation under 26 U.S.C. § 501(c)(3) that is incorporated under the laws of the State of Utah and headquartered in St. George, Utah. It is comprised of a grassroots coalition of local citizens committed to protecting the natural resources and quality of life in Washington County, Utah through direct advocacy of conservation and by promoting Smart Growth policies that enable conservation, for the benefit of present and future generations. CSU began as a citizen reaction to the introduction of the Washington County Growth and Conservation Act of 2006 ("Act") which would have required the construction of the Northern Corridor. CSU's founding members organized a local constituency which successfully helped change the Act into the 2009 Omnibus Public Lands Bill, which established the BLM's conservation mandate and Red Cliffs NCA that is threatened by the Northern Corridor Project targeted by this request. In 2018, CSU provided monthly communications to 1400 newsletter subscribers; education and outreach programs to 1200 Washington County residents; published over 15 letters to the editor and Op-Eds in local and regional newspapers; and provided weekly outreach and updates to 550 followers on social media. Governmental documents obtained through this FOIA request will be shared with CSU's growing audience and the larger community through letters to the editor and op-eds, social media, outreach and education, workshops, public forums, and member communications.

CSU and its members actively work to protect and restore the Red Cliffs NCA and other public lands through public education, stewardship, volunteer programs, and environmental advocacy. The disclosure of the requested governmental documents to CSU will significantly contribute to public understanding of government activities because these documents are not readily available to the public without such a request. These are not the type of documents the agency routinely publicizes or otherwise broadly disseminates to the public on a normal basis. Thus, a FOIA

request is required to obtain the documents. In addition, CSU will use its skills and expertise to analyze these documents, which are often complex and difficult to understand without special training or experience, to assess the environmental impact of any efforts to undermine protections for National Conservation Areas. This assessment will then be of significant use to CSU's efforts to educate the public about the government's activities in the region.

Expedited Processing

Additionally, CSU respectfully requests expedited processing of this request. FOIA provides for expedited processing of requests for agency records, and directs agencies to "process as soon as practicable any request for records to which [they have] granted expedited processing." 5 U.S.C. § 552(a)(6)(E)(iii). Expedition is available in cases in which the person requesting the records demonstrates a compelling need. *Id.* § 552(a)(6)(E)(i). A compelling need may be shown where, "with respect to a request made by a person primarily engaged in disseminating information," there is an "urgency to inform the public concerning actual or alleged Federal Government activity." *Id.* § 552(a)(6)(E)(v)(II); *see also* 43 C.F.R. § 2.20(a)(2).

The records requested here concern the construction of a highway through or up to the edge of the Red Cliffs NCA—a matter that has generated considerable public interest—and these records are necessary to ensure that the public is sufficiently informed of the factual basis underlying the government's actions before a final action is taken. Dissemination of information regarding the Northern Corridor is urgent because there are congressional and regulatory efforts to require or allow construction to begin which will lead to significant changes in land management in the affected areas in the near term. Accordingly, the public needs to have access to pertinent information in an expedited fashion to evaluate and engage with its government on this drastically-changed approach in an effective manner.

While CSU is not a representative of the news media, a primary focus and purpose of the organization is the dissemination of information about the Red Cliffs NCA, including providing online information accessible for free to the public-at-large and newsletters to members of the organization. Accordingly, CSU's FOIA request meets the requirements for expedited processing established in 43 C.F.R. § 2.20.

I look forward to your response regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 43 C.F.R. § 2.20(d). I further look forward to receiving your response to this Request itself within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i) and 43 C.F.R. § 216(a). I reserve the right to appeal a decision and seek all available legal remedies in response to any withholding of any information, a denial of our request for expedited processing, or denial of our request for a waiver or limitation of fees.

Please send electronic copies of the documents to me at the address immediately below.

Todd C. Tucci
Advocates for the West
1320 W Franklin St.
Boise, ID 83702

Alternatively, you may send the documents electronically to me at ttucci@advocateswest.org. If you have any questions about this request, please feel free to contact me. Thank you very much.

Sincerely,

/s/ Todd C. Tucci

Todd C. Tucci
ADVOCATES FOR THE WEST
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