



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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



IN REPLY REFER TO:
DOI-FWS-2021-002165

April 16, 2021

Via email: teresam@petaf.org

Teresa Marshall
PETA Foundation
501 Front Street
Norfolk, VA 23510

Dear Ms. Marshall:

The U.S. Fish and Wildlife Service (FWS) received your Freedom of Information Act (FOIA) request dated January 29, 2021 and assigned it control number DOI-FWS-2021-002165. Please cite this number in any future communications with our office regarding your request.

You requested the following:

“copies of any records related to proposed or requested imports of live African elephants from September 25, 2020 onwards. The term “records” includes, but is not limited to, responses to USFWS requests, internal agency discussions, reports, studies, correspondence, memoranda, permit application materials, meeting notes and minutes, drafts and working papers, notes and summaries of conversations and interviews, e-mails, photographs, videotapes, and any other forms of written or recorded communication. Please note that e-mails are especially requested, as often these agency records are excluded from the agency's FOIA responses.”

RESPONSE

We are writing to provide a final response to your request. We have enclosed one file consisting of (3,033) pages, which are being released but withheld in part under Exemption 6 of the FOIA as explained below.

Exemption 6 (withheld three hundred eighty-five (385) pages in part)

Exemption 6 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\(b\)\(6\)](#). We are withholding 385 pages in part under Exemption 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, such as physical addresses, phone numbers, email addresses, date of birth, passport information, and any other personal identifiers, 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.

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.

Cathy Willis, FWS FOIA Officer, is responsible for this partial denial. Larry Mellinger, Attorney-Advisor, in the Office of the Solicitor was consulted.

MEDIATION SERVICES

The 2007 FOIA amendments created the Office of Government Information Services (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
Web: <https://ogis.archives.gov>
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 and Privacy Act Appeals Officer.

You may also seek dispute resolution services from our FOIA Liaison, Cathy Willis, at (702) 425-5173.

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 letter. 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 the FWS' 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 FWS' 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

For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at 43 C.F.R. Part 2, Subpart H.

CONCLUSION

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. See 43 C.F.R. § 2.37(g). Therefore, there is no billable fee for the processing of this request and your fee waiver is moot.

If you have any questions, please contact Shaunta Nichols, Division of Information Resources and Technology Management, MS: IRTM, 5275 Leesburg Pike, Falls Church, Virginia 22041 (703-358-2374 or via e-mail at shaunta_nichols@fws.gov).

Sincerely,

For Cathy Willis
FWS FOIA Officer