



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:

BA/FOIA  
MS 60180

MAILING ADDRESS:

Post Office Box 25486  
Denver Federal Center  
Denver, Colorado 80225-0486

STREET LOCATION:

134 Union Blvd.  
Lakewood, Colorado 80228-1807

September 30, 2016

Chris Colligan  
Wildlife Program Coordinator  
Greater Yellowstone Coalition  
P.O. Box 4857  
Jackson, WY 83001

REF: FWS-2016-01121

Dear Mr. Colligan:

This letter is in regard to your Freedom of Information Act (FOIA) request dated August 18, 2016 for *“all correspondence, including emails, memoranda, meeting notes, and agreements of any kind and any related or attached documents internal to the U.S. Fish and Wildlife Service or between officials in the Regional Offices in Missoula and Denver, or the Washington Office with officials from the National Park Service, or the States of Wyoming, Idaho, and Montana related to removing the Greater Yellowstone ecosystem population of grizzly bears from the Federal List of Endangered and Threatened Wildlife (FWS-R6-ES-2016-0042). Specifically, we are requesting any information regarding the draft Revised Demographic Recovery Criteria, proposed mortality thresholds, draft Memorandum of Agreement regarding the management and allocation of discretionary mortality for grizzly bear, or the draft 2016 Grizzly Bear Conservation Strategy.”*

We have assigned your request tracking number FWS-2016-01121. Please refer to this number in communications regarding your request.

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that can be processed in one to five workdays. The Normal track is for requests that can be processed in six to twenty workdays. The Complex track is for requests that can be processed in twenty-one to sixty workdays. The Exceptional/Voluminous track is for requests requiring more than sixty workdays for processing. The Expedited track is for requests that have been granted

expedited processing. Within each track, requests are usually processed on a first-in, first-out basis.

Your request falls into the Exceptional/Voluminous processing track. We therefore expect that we will dispatch a determination to you by February 13, 2017.

You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a faster track (which may have the effect of reducing the cost of processing your request).

We are enclosing a DVD containing one-hundred two (102) documents (1573 pages) responsive to your request, of which 101 (1415 pages) are being released to you in their entirety. An additional one (1) document (158 pages) is being withheld in part under 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. *See United States Dep't of State v. Washington Post Co.*, 456 U.S. 595, 602 (1982). 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. *See United States Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-75 (1989).

Under the FOIA, "the only relevant public interest" to consider under the exemption is "the extent to which the information sought would 'shed [ d] light on an agency's performance of its statutory duties' or otherwise let citizens 'know what their government is up to.'" *United States Dep't of Def v. Fed. Labor Relations Auth.*, 510 U.S. 487, 495-96 (1994) (quoting *Reporters Comm.*, 489 U.S. at 775). The burden is on the requester to establish that disclosure would serve the public interest. *See National Archives and Records Admin. v. Favish*, 541 U.S. 157, 171-72(2004). 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. *See Reporters Comm.*, 489 U.S. at 771..

The information that has been withheld under Exemption 6 consists of individuals' date of birth; place of birth; home addresses, phone number and email addresses; and certain information on resumes. Please note certain resumes contain more redactions than others due to the availability of information on the internet. We have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding that information. 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.

We have classified you as an "Other" requester.

In consideration of your request for a fee waiver, pursuant to 5 C.F.R. § 4.11(k) (2010), we must evaluate whether disclosure of the requested information is: 1) in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and 2) not primarily in the commercial interest of the requester.

In determining whether your request meets the first fee waiver requirement, we considered the following factors:

- 1) Whether the subject of the requested records concerns the operations of activities of the Government.
- 2) Whether the disclosure is "Likely to contribute" to an understanding of Government operations or activities.
- 3) Whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.
- 4) Where the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities.

In determining whether your request meets the second fee waiver requirement, we considered the following factors:

- 1) Whether the requester has a commercial interest that would be furthered by the requested disclosure.
- 2) Whether any identified commercial interests of the requester is sufficiently great, in comparison with the public interest in disclosure that disclosures are "primarily in the commercial interest of the requester."

Based on the above criteria, we have determined that you adequately addressed the statutory requirements for a waiver of fees in your July 20, 2016 request. You have been granted a full waiver for the records requested. Please be advised however, granting this waiver does not automatically apply to future requests submitted by you or your organization. Requests for fee waivers are determined on a case-by-case basis for the records requested under statutory fee waiver requirements.

You may appeal this partial 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 Service's response is in error. You must also include with your appeal copies of all correspondence between you and the Service concerning your FOIA request, including your original FOIA request and the Service's response. Failure to include with your appeal all correspondence between you and the Service 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)

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](mailto: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 & Privacy Act Appeals Officer.

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.

You also may seek dispute resolution services from our FOIA Public Liaison, Carrie Hyde-Michaels; Chief, Branch of FOIA, Records, Privacy; 703-358-2291.

If you have any questions, you may contact me by phone at 303-236-4473, by email at Stacey\_Cummins@fws.gov, or by mail at 134 Union Blvd, Lakewood, Colorado 80228.

Sincerely,

A handwritten signature in black ink that reads "Stacey Cummins". The signature is written in a cursive, flowing style.

Stacey Cummins  
Region 6 FOIA Coordinator

Enclosure

Received of Mr. J. H. [unclear]

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18[unclear]

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