

From: [Robert Aland](#)
To: fw6_foia@fws.gov; fw6_foia@fws.gov
Subject: FOIA - PUBLIC COMMENTS RELATING TO GRIZZLY BEARS
Date: Thursday, May 11, 2017 1:01:09 PM
Attachments: [Grizzlies - Public Comments - 2005 - FWS Tables.pdf](#)

Dear Ms. Hyde-Michaels and Ms. Cummins:

On March 11, 2016, the U. S. Fish & Wildlife Service (“FWS”) published in the Federal Register a proposed rule (“Proposed Rule”) relating to the removal of the Greater Yellowstone Ecosystem (“GYE”) population of grizzly bears from the Federal List of Endangered and Threatened Wildlife protected under the Endangered Species Act (“ESA”), as amended, 16 U.S.C. §§ 1531-1544. 81 Fed. Reg. 13174 et seq.

The public was entitled to submit comments with regard to the Proposed Rule under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551 et seq. The Proposed Rule stated (at page 13174): “We will accept comments received or postmarked on or before May 10, 2016.” Subsequently the deadline for public comments was extended to October 7, 2016. 81 Fed. Reg. 61658 (Sept. 7, 2016).

The public comment period for the Proposed Rule has ended, and it is understood that a substantial number of comments were submitted by the public (“2016 Public Comments”). By email dated January 18, 2017, Ryan Moehring, Public Affairs, FWS, Mountain-Prairie Region, informed me that the 2016 Public Comments comprised “roughly 665,000 comments.”

The FWS presumably has completed its review of the 2016 Public Comments and is expected to issue a final determination in the near future with regard to removal of ESA protection of GYE grizzly bears. Mr. Moehring stated in his January 18 email: “We estimate that a final decision will be made this summer, as early as June”

In 2005 the FWS published in the Federal Register its first proposed rule to remove ESA protection for GYE grizzly bears [70 Fed. Reg. 69854 et seq. (Nov. 17, 2005)], and it received approximately 195,000 comments from the public under the APA with regard to that proposed

rule. The FWS prepared, and made available to the public, the attached analyses of those public comments (“FWS 2005 Analyses”).

I request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended by the FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A), that you provide to me all records, of every kind and character, irrespective of form or format (including paper and electronic records), that relate, directly or indirectly, to the FWS’s review, consideration and analysis of the 2016 Public Comments (“Requested Records”).

The Requested Records include, but are not limited to:

- Documents containing analyses of the 2016 Public Comments that are comparable or similar to the FWS 2005 Analyses;
- Documents containing other analyses of the 2016 Public Comments that are not necessarily comparable or similar to the FWS 2005 Analyses;
- Documents, if any, stating why analyses comparable to the FWS 2005 Analyses were, or were not, prepared with regard to the 2016 Public Comments;
- Documents stating why, or why not, any 2016 Public Comments, individually or in groups, were treated either as especially important or disregarded; and
- Documents setting forth the names, titles, qualifications and locations of the FWS employees, or outside contractors, who reviewed and/or evaluated the 2016 Public Comments and describing why those persons were selected to perform such reviews and evaluations.

The term Requested Records is to be construed broadly consistent with the meaning of the term “records” provided by the FOIA.

If any of the Requested Records were, but no longer are, in the possession or control of your agencies because they were forwarded to another agency, please forward this request to such other agency for response by that agency.

I believe that many (possibly most) of the Requested Records are located in the Office of the Secretary of the Interior and/or the Office of the Deputy Assistant Secretary of the Interior for Fish, Wildlife and Parks in Washington, DC; the FWS Director's Office in Washington, DC; the FWS Headquarters Office in Falls Church, Virginia; the FWS Region 6 Office in Lakewood, Colorado; and/or the Office of the FWS Grizzly Bear Recovery Coordinator in Missoula, Montana.

All Requested Records provided to the undersigned should show the signatures of the appropriate persons and the dates of their signatures.

I believe that no FOIA exemption applies, in whole or in part, to any of the Requested Records and, therefore, that no Requested Records should be withheld or redacted. The Requested Records relate solely to the required APA public comment process and have no relation to legal advice or any deliberative process.

If you decide to claim a FOIA exemption for any document, in whole or in part, please provide sufficient information for me to assess the basis for the claim, including (a) basic factual material about each withheld or redacted record, including the originator, date, length, general subject matter and location; (b) a complete explanation and justification for the withholding, including the exemption(s) claimed and why it or they applied; and (c) a statement of any interest that would be harmed by providing the document.

Please provide the Requested Records (a) within the time limit set forth in the FOIA and (b) in a readily-accessible electronic format as required by the FOIA with an index.

I will pay fees associated with processing this request subject to 43 CFR 2.37(e), (f) and (g). For this purpose, I am an "other requester" within the meaning of 43 CFR 2.39, since I do not intend to use the Requested

Documents for any commercial purpose and am not a representative of any news media.

Please (a) acknowledge receipt of this request; (b) provide the assigned tracking number(s); and (c) advise when you expect to provide the Requested Records.

Sincerely,

Robert H. Aland

140 Old Green Bay Road
Winnetka, IL 60093-1512
(847) 784-0994
(847) 446-0993 (F)