

From: [Robert Aland](#)
To: fw6.foia@fws.gov; fw6.foia@fws.gov
Subject: FOIA - PUBLIC COMMENTS RELATING TO GRIZZLY BEARS
Date: Monday, July 31, 2017 8:03:05 PM

FREEDOM OF INFORMATION ACT REQUEST

Dear Ms. Hyde-Michaels and Ms. Cummins:

On March 11, 2016, the U. S. Fish and Wildlife Service (“FWS”) published in the Federal Register a Proposed Rule removing grizzly bears in the Greater Yellowstone Ecosystem (“GYE”) from the list of protected species under the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 et seq. 81 Fed. Reg. 13174. The Proposed Rule stated that comments from the public with regard to the Proposed Rule, as required by the Administrative Procedure Act, 5 U.S.C. § 553, would be accepted until May 10, 2016. Subsequently the FWS reopened the comment period until October 7, 2016. 81 Fed. Reg. 61658 (Sept. 7, 2016).

On June 30, 2017, the FWS published in the Federal Register the Final Rule removing GYE grizzly bears from the list of protected species under the ESA. 82 Fed. Reg. 30502. The Final Rule stated that more than 665,000 comments had been received from the public (“Comments”).

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 fall into the following three categories (“Requested Records”):

1. Comments of a technical, biological and/or scientific nature that were received, and taken into account, by the FWS in the process of determining the Final Rule;
2. Comments of a technical, biological and/or scientific nature that were received, but **not** taken into account, by the FWS in the process of determining the Final Rule, including documents that

- indicate why those Comments were not taken into account; and
3. Documents indicating (a) which Comments, **other** than those of a technical, biological and/or scientific nature, were received, but **not** taken into account, by the FWS in the process of determining the Final Rule and (b) why those Comments were not taken into account.

Note: Complete copies of the Comments in #1 and #2 are requested and should be provided. However, the underlying Comments in #3 are not requested should not be provided.)

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

In the Proposed Rule the FWS offered several options for submitting the comments: Electronically on the Federal eRulemaking Portal or in hard copy via U. S. mail or hand delivery to the FWS's Headquarters Office address in Falls Church, Virginia. Thus, it appears that many (possibly most) of the Requested Records are located in the FWS Headquarters Office in Falls Church. However, the Requested Records might also be located in the FWS's Region 6 Office in Lakewood, Colorado, and/or the Office of the FWS Grizzly Bear Recovery Coordinator in Missoula, Montana.

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 certain public comments 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. Thus, please provide (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.

Please contact me if you have any questions about this Request.

Sincerely,

Robert H. Aland

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