



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:  
FWS/R6/BA/FOIA

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

STREET LOCATION:  
134 Union Boulevard  
Lakewood, Colorado 80228-1807

November 3, 2017

Letter via email: [rhaland@comcast.net](mailto:rhaland@comcast.net)

Hard copy by regular mail

Robert H. Aland  
140 Old Green Bay Road  
Winnetka, IL 60093-1512

REF: FWS-2017-01121

Dear Mr. Aland:

This letter is in regard to your Freedom of Information Act (“FOIA”) request dated July 31, 2017, request number FWS-2017-01121<sup>1</sup>, for:

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.*

The U.S. Fish and Wildlife Service (“Service”) collected comments electronically (via regulations.gov) and via letters mailed to the Headquarters Office of Policy, Performance, and Management Programs, to the Mountain-Prairie Regional Office and field stations, and to the Department of the Interior. All comments were analyzed and considered as appropriate. Comments were coded as **substantive vs. non-substantive**. Substantive comments are those which provide specific feedback on the content of the proposed rule, concerns about information left out of the proposed rule, or updated data. We considered comments to be non-substantive if they only expressed an opinion for or against the proposed rule, if they did not present any substantive issues or concerns with the proposed

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<sup>1</sup> The request number FWS-2017-01098, which was given in our acknowledgement letter dated October 5, 2017, is incorrect. The correct request number for this request is FWS-2017-01121.

rule, if they only included transcripts of public meetings or copies of rule-making documents, or if the only substantive issues the comments presented exactly duplicated topics that had already been declared substantive in another comment. After determining whether the comment was substantive or not, we read through each submitted comment, we pulled out any comments from official sources (e.g. state and local governments, tribes, NGOs, professional organizations, other Federal agencies) and any comments that provided highly substantive or technical information, and provided them directly to the lead grizzly bear biologist for review and analysis.

Enclosed is a USB flash drive containing three-hundred sixty-nine (369) documents responsive to #1 of your request. These documents are the highly substantive or technical comments. The substantive and non-substantive comments can be accessed from regulations.gov within docket FWS-R6-ES-2016-0042. For a direct link to these comments, <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=PS&D=FWS-R6-ES-2016-0042>. Additionally, to offer information on how the public comments were processed, we are including two documents (2) which provide a narrative of the content analysis process for the public comments that were received during the comment period.

In response to #2 and #3 of your request, it has been determined that the Service has no responsive records.

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 these requests.

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 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.

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

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.

Cathy Willis, U.S. Fish and Wildlife Service, Acting Regional FOIA Coordinator is responsible for this response. Tyson Powell, Attorney-Advisor, Office of the Solicitor-Rocky Mountain Region, was consulted.

This is our final response and closes your request FWS-2017-01121. If you have any questions, you may contact me by phone at 303-236-4325, by email at fw6\_foia@fws.gov or by mail at 134 Union Blvd., Lakewood, CO 80228.

Sincerely,

*for* Stacey Cummins  
Region 6 FOIA Coordinator