



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington D.C. 20240



May 12, 2023

Via email: equi@earthjustice.org

Emily Qiu
Earthjustice
Northern Rockies Office
PO Box 4743
Bozeman, MT 59772

REF: DOI-FWS-2023-000602

Dear Ms. Qiu:

We are writing to respond to your Freedom of Information Act Request (FOIA) request dated November 2, 2022 and assigned control number DOI-FWS-2023-000602. Your request was generally for records related to the grizzly bear locations in Idaho, Montana, and Wyoming.

On February 22, 2023, we met to discuss your request. On March 1, 2023, you modified the scope of your request to: *All records demonstrating or discussing relocating grizzlies into the Bitterroot Ecosystem as well as actions/discussions regarding relocating grizzlies away from the Bitterroot Ecosystem.*

Response

For this second response, we processed seventy-nine (79) pages and one (1) KMZ file (7 KB) and our determination is as follows: forty-one (41) pages are released in full, thirty-eight (38) pages are released in part, and the KMZ file is withheld in full. The documents withheld in part and in full are being withheld under the following FOIA Exemptions:

Exemption 6

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 thirty-six (36) pages in part and 1 KMZ file in full under Exemption 6. Twenty-three (23) of the 36 pages are also being withheld in part under Exemptions 7c and 7F.

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, personal names, emails, phone numbers and locations of private individuals, and 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.

Exemption 7

Exemption 7 protects from disclosure “records or information compiled for law enforcement purposes” if the records fall within one or more of six specific bases for withholding set forth in subparts (A) through (F). 5 U.S.C. § 552(b)(7)(A)-(F). We are withholding 25 pages in part under Exemption 7 because they are protected under the following subparts:

7(C)

Exemption 7(C) protects law enforcement records if their release could reasonably be expected to constitute an unwarranted invasion of personal privacy. It is regularly applied to withhold references to individuals in law enforcement files. For the materials that have been withheld under 7(C), we have determined that releasing them would constitute an unwarranted invasion of privacy because they identify individuals referenced in law enforcement records and the release of this information would not shed light on an agency’s performance of its statutory duties.

7(F)

Exemption 7(F) protects law enforcement records if their release could reasonably be expected to endanger the life or physical safety of any individual. For the materials that have been withheld

under 7(F), we have determined releasing them could reasonably be expected to endanger the life or physical safety of an individual.

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.

Stacey Cummins, FWS FOIA Coordinator, is responsible for this partial denial. Kate Williams-Shuck, Attorney-Advisor in the Office of the Solicitor was consulted.

Because this is an interim response to your request, we will provide notice of your appeal rights in our final response letter.

If you have questions about our response, you may contact me by phone at 303-236-4473, or by email at stacey_cummins@fws.gov.

Sincerely,

Stacey Cummins
FWS FOIA Coordinator