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**ATTORNEYS FOR DEFENDANT
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

BUFFALO FIELD CAMPAIGN,

Plaintiff,

vs.

**UNITED STATES DEPARTMENT
OF THE INTERIOR, NATIONAL
PARK SERVICE,**

Defendant.

CV 19-165-M-DWM

**UNITED STATES' ANSWER TO
COMPLAINT**

Defendant United States of America, by and through its attorneys, answers Plaintiff's Complaint as follows. The paragraph numbering below corresponds to the Complaint.

1. Defendant denies the allegations of this paragraph, except to admit Plaintiff purports to bring this action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 et seq.

2. Defendant denies the allegations of this paragraph.

3. This paragraph characterizes Plaintiff's requested relief, to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph.

4. Defendant admits the Court has jurisdiction over this matter pursuant to 5 U.S.C. § 552(a)(4)(B). Defendant denies the remaining allegations of this paragraph.

5. This paragraph contains legal conclusions regarding venue, to which no response is required.

6. This paragraph contains legal conclusions regarding venue, to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of this paragraph, and therefore denies them.

7. Defendant denies the allegations of this paragraph.

8. Defendant denies the allegations of this paragraph.

9. Defendant admits a party which substantially prevails in an action under the FOIA may be entitled to recover reasonable attorney's fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E)(i).

10. Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of this paragraph, and therefore denies them.

11. Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of this paragraph, and therefore denies them.

12. Defendant admits the allegations of the first sentence of this paragraph. Defendant lacks knowledge or information sufficient to form a belief regarding the remaining allegations of this paragraph, and therefore denies them.

13. This paragraph contains legal conclusions to which no response is required.

14. This paragraph contains legal conclusions to which no response is required.

15. This paragraph contains legal conclusions to which no response is required.

16. This paragraph purports to characterize Plaintiff's FOIA Request dated June 20, 2018, which speaks for itself and is the best evidence of its contents.

Defendant respectfully refers the Court to the FOIA Request for an accurate and complete statement of its contents and denies any allegations inconsistent therewith.

17. This paragraph purports to characterize Plaintiff's FOIA Request dated June 20, 2018, which speaks for itself and is the best evidence of its contents.

Defendant respectfully refers the Court to the FOIA Request for an accurate and complete statement of its contents and denies any allegations inconsistent therewith.

18. As to the first sentence of this paragraph, which purports to characterize Plaintiff's FOIA Request dated June 20, 2018, this document speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the FOIA Request for an accurate and complete statement of its contents and denies any allegations inconsistent therewith. Defendant admits the allegations of the second sentence of this paragraph.

19. This paragraph purports to characterize an e-mail communication from Kerrie Evans, which speaks for itself and is the best evidence of its contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communication, the allegations are denied.

20. This paragraph purports to characterize Defendant's Partial Response Letter dated July 18, 2018, which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the Partial Response Letter for

an accurate and complete statement of its contents and denies any allegations inconsistent therewith.

21. This paragraph purports to characterize e-mail communications between Darrell Geist and Kerrie Evans, which speak for themselves and are the best evidence of their contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communications, the allegations are denied.

22. This paragraph purports to characterize Defendant's Final Response Letter dated August 22, 2018, and documents transmitted with that letter, which speak for themselves and are the best evidence of their contents. Defendant respectfully refers the Court to the Final Response Letter and attachments for an accurate and complete statement of its contents and denies any allegations inconsistent therewith. Admit last sentence.

23. This sentence purports to characterize Defendant's FOIA Appeal dated October 22, 2018, which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the FOIA Appeal for an accurate and complete statement of its contents and denies any allegations inconsistent therewith.

24. This sentence purports to characterize Defendant's FOIA Appeal dated October 22, 2018, which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the FOIA Appeal for an accurate and complete statement of its contents and denies any allegations inconsistent therewith.

25. This paragraph purports to characterize the Complaint, which speaks for itself and is the best evidence of its contents. To the extent a response is required, Defendant denies the allegations of this paragraph for lack of knowledge.

26. Defendant denies the allegations in this paragraph.

27. Defendant denies the allegations in this paragraph.

28. This paragraph purports to characterize e-mail communications between Plaintiff's Counsel and Charis Wilson, which speak for themselves and are the best evidence of their contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communications, the allegations are denied.

29. This paragraph purports to characterize e-mail communications between Plaintiff's Counsel and Charis Wilson, which speak for themselves and are the best evidence of their contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communications, the allegations are denied.

30. This paragraph purports to characterize an e-mail communication from Charis Wilson, which speaks for itself and is the best evidence of its contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communication, the allegations are denied.

31. This paragraph purports to characterize an e-mail communication from Plaintiff's Counsel, which speaks for itself and is the best evidence of its contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communication, the allegations are denied.

32. This paragraph purports to characterize an e-mail communication from Charis Wilson, which speaks for itself and is the best evidence of its contents. To the extent the allegations of this paragraph are inconsistent with the referenced e-mail communication, the allegations are denied.

33. Defendant denies the allegations in this paragraph.

34. Defendant denies the allegations in this paragraph.

35. Defendant denies the allegations in this paragraph.

36. This paragraph contains legal conclusions regarding exhaustion of administrative remedies, to which no response is required.

37. Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of this paragraph, and therefore denies them.

38. Defendant incorporates by reference each of the foregoing responses as though fully set forth herein.

39. Defendant denies the allegations of this paragraph, except to admit that affected agencies must comply with the FOIA.

40. Defendant denies the allegations in this paragraph.

41. Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of the first sentence of this paragraph, and therefore denies them. Defendant denies the allegations of the second sentence of this paragraph.

42. Defendant denies the allegations in this paragraph.

43. Defendant denies the allegations in this paragraph.

44. Defendant incorporates by reference each of the foregoing responses as though fully set forth herein.

45. Defendant denies the allegations of this paragraph, except to admit that affected agencies must comply with the FOIA.

46. Defendant denies the allegations of this paragraph.

47. Defendant denies the allegations of this paragraph.

48. Defendant lacks knowledge or information sufficient to form a belief regarding the allegations of this paragraph, and therefore denies them.

49. Defendant denies the allegations in this paragraph.

50. Defendant denies the allegations in this paragraph.

Defendant denies the allegations in Plaintiff's Request for Relief.

Defendant denies any allegation not specifically admitted or otherwise addressed above.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff's Complaint should be dismissed in whole or in part for failure to state a claim upon which relief may be granted.

Second Affirmative Defense

Plaintiff is not entitled to compel disclosure of documents exempt from disclosure, in whole or in part, under one or more exemptions to the FOIA. *See* 5 U.S.C. § 552(b).

Third Affirmative Defense

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief that exceed the relief authorized under the FOIA.

Fourth Affirmative Defense

Plaintiff is not entitled to declaratory relief, *see* 5 U.S.C. § 552(a)(4)(B), and the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., does not provide jurisdiction or a basis for relief for Plaintiff.

DATED this 14th day of November, 2019.

KURT G. ALME
United States Attorney

/s/ MARK STEGER SMITH
Assistant U.S. Attorney
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 2019, a copy of the foregoing document was served on the following person by the following means.

<u>1-2</u>	CM/ECF
_____	Hand Delivery
_____	U.S. Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

1. Clerk of Court

2. Timothy Bechtold
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Attorney for Plaintiff

/s/ MARK STEGER SMITH
Assistant U.S. Attorney
Attorney for Defendant