



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

PO Box 168

Yellowstone National Park

Wyoming 82190

A7221(YELL)

VIA EMAIL – NO HARD COPY TO FOLLOW

July 18, 2018

Mr. Darrell Geist
Buffalo Field Campaign
P.O. Box 957
West Yellowstone, Montana 59758
z@wildrockies.org

Dear Mr. Geist:

This letter is a partial response to your Freedom of Information Act (FOIA) request dated and received June 20, 2018, in which you requested “The policy surrounding the size of the bison population or herds in the Yellowstone ecosystem,” excluding documents previously produced by Yellowstone regarding bison census or population size estimates, and records available on ibmp.info.

Your request has been assigned FOIA control number NPS-2018-00887.

It is the policy of the National Park Service (NPS) to: (1) make records of the NPS available to the public to the greatest extent possible in keeping with the spirit of the FOIA; and (2) make documents requested under the FOIA available at the earliest possible date while, at the same time, protecting the rights of the individuals involved and the administrative processes surrounding such rights. For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the 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.

Your request is being processed under the provisions of the Freedom of Information Act (5 United States Code 552); United States Department of the Interior (“Department”) implementing regulations found at 43 Code of Federal Regulations Part 2, Subparts A through E, beginning at 2.1; and the Privacy Act of 1974 (5 United States Code 552a). Please be advised that additional FOIA and/or Privacy Act guidance/regulations may also be found at either the Department’s web site, www.doi.gov/foia, or the United States Department of Justice web site, www.usdoj.gov.

Exemption 5 allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency.” 5 U.S.C. §

552(b)(5). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges. The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fish bowl. A number of policy purposes have been attributed to the deliberative process privilege. Among the most important are to: (1) assure that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protect against premature disclosure of proposed policies; and (3) protect against confusing the issues and misleading the public. The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process” and may include “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would have a chilling effect on the agency’s deliberative processes; expose the agency’s decision-making process in such a way as to discourage candid discussion within the agency, and thereby undermine its ability to perform its mandated functions. The deliberative process privilege does not apply to records created 25 years or more before the date on which the records were requested.

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 2 pages in part under Exemption 7 because they are protected under the following subpart. Exemption 7(E) protects law enforcement records if their release would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law. For the materials that have been withheld under 7(E), we have determined that they are techniques for law enforcement investigations or prosecutions; they are procedures for law enforcement investigations or prosecutions; and they are guidelines for law enforcement investigations or prosecutions whose release could reasonably be expected to risk circumvention of the law.

Nine (9) documents totaling 33 pages have been released in their entirety:

1. March 14, 2017 – email from Dan Wenk to Amy Mitchell, Subject: Final Briefings 1 of 4 (9 pp.)
2. March 15, 2017 – email from Amy Mitchell to Dan Wenk, Subject: Re: Final Briefings 1 of 4 (1 page)
3. March 27, 2017 – email from Dan Wenk to Bert Frost, Sue Masica, Alexa Viets, Subject: Update to bison brief (2 pp.)
4. June 5, 2017 – email from Grace Stephens to Dan Wenk, Sue Masica, Herbert Frost, Subject: Re: YELL bison meeting (4 pp.)
5. March 22, 2018 – email from P.J. White to Dan Wenk, Patrick Kenney, Jody Lyle, Subject: Removals of Bison during Winter 2017-2018 (3 pp.)
6. April 10, 2018 – email from Tim Reid to Jennifer Carpenter, P.J. White, Rick Wallen, Subject: Fwd: YELL submissions for IMR Weekly Report (2 pp.)

7. April 23, 2018 – email from Tim Reid to Scott Bischke, Subject: Powerpoint (3 pp.)
8. May 17, 2018 – email from Tim Reid to Rick Wallen, Subject: Re: Briefs on Bison Grazing and Abundance (4 pp.)
9. June 14, 2018 – email from Tim Reid to P.J. White, Subject: Re: Hunt Mtg Notes (5 pp.)

A Notice of Delay letter was sent to you by email on July 18, 2018. As noted in that letter, as yet, we have been unable to make a determination on the remaining documents responsive to your request. Although we hope that you will wait so that we can complete our review process, please note that you may seek dispute resolution services from our FOIA Public Liaison or the Office of Government Information Services (OGIS), as detailed in that letter. The remaining documents responsive to your request will be provided in subsequent response(s).

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 5:00 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 National Park Service's response is in error. You must also include with your appeal copies of all correspondence between you and Yellowstone National Park concerning your FOIA request, including your original FOIA request and the Bureau's response. Failure to include with your appeal all correspondence between you and the Bureau 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, D.C. 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

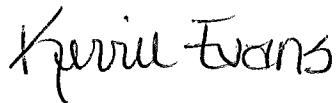
As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered

a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
(OGIS) 8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

Fee waivers are determined on a case-by-case basis. All fees have been waived. This letter is the first partial release of Yellowstone National Park's response to you for this request. If you have questions concerning this FOIA response, please contact me at (307) 344-2002.

Sincerely,

A handwritten signature in black ink that reads "Kerrie Evans". The signature is written in a cursive, flowing style.

Kerrie Evans
Freedom of Information Act Officer

Enclosures