



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:
Appeal No. 2024-069

March 27, 2024

Darrell Geist
Buffalo Field Campaign
PO Box 957
West Yellowstone, MT 59758

Dear Mr. Geist:

This responds to the February 20, 2024, Freedom of Information Act (“FOIA”) appeal (“appeal”) that you filed with the Department of the Interior’s FOIA Appeals Office (“Department”), which the Department received on February 28, 2024, and assigned as **Appeal Number 2024-069**. The appeal concerns your December 7, 2023, FOIA request to the National Park Service (“NPS”) that sought Briefing Statements on Yellowstone bison from January 1, 2019 – current; two unpublished papers referenced in “Ch. 8, Yellowstone Bison: Conserving an American Icon in Modern Society (2015)”; Papers, reports, studies, and surveys on Yellowstone bison genetics from January 1, 2019 – current; and records transmitted between Yellowstone National Park and the FWS on Yellowstone bison from January 1, 2018 – current.

You filed the appeal to challenge the NPS’s decision to withhold in full and in part, pursuant to the deliberative process privilege of FOIA exemption (5),¹ records and information responsive to the FOIA request. You also question whether the NPS has met its obligations under the FOIA to segregate and release all of the non-exempt information found in the records.² Finally, you challenge the adequacy of the NPS’s search.

In connection with the appeal, the NPS re-evaluated its response to the FOIA request and determined it was insufficient. So, to resolve the appeal, the Department will **REMAND** this matter to the NPS for it to amend its previous response to the FOIA request. Accordingly, **by copy of this letter, the NPS is directed to:**

- **Reassess the initial file search it conducted and make a determination on the release of any additional responsive records it locates.**
- **Conduct another line-by-line, page-by-page review of the withheld records and information (and of any new records it locates) and release any additional information contained therein that is not protected from disclosure by a FOIA exemption or for which it no longer reasonably foresees that disclosure would harm an interest protected by an exemption.³**
- **Complete the processing of this remand within 20 workdays of the date of this decision.**
- **Issue another response directly to the Appellant (with a copy of the letter to this Office).**

¹ Exemption (5) protects “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). This exemption incorporates the privileges that protect materials from discovery in litigation, including the deliberative process privilege.

² See 5 U.S.C. § 552(b) (discussion after exemptions) (stating “Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt” from disclosure).

³ See *Id.*; 5 U.S.C. § 552(a)(8)(A)(i)(I)-(II).

If you are dissatisfied with the NPS's new response to this matter, you may file another appeal with the Department in accordance with the procedures set forth in the Department's FOIA regulations.⁴

This completes the Department's response to your appeal. If you have any questions regarding this matter, please e-mail them to the FOIA Appeals Office at foia.appeals@sol.doi.gov.

Sincerely,



Darrell R. Strayhorn
FOIA Appeals Officer
Department of the Interior

cc: Yellowstone National Park FOIA Officer (**FOR ACTION**)
NPS FOIA Officer
Intermountain Region FOIA Officer, NPS
Office of the Solicitor

⁴ See 43 C.F.R. Part 2, Subpart H.