



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2018-01317

May 19, 2020

Via email: dan@tebbuttlaw.com; tim@bechtoldlaw.net

Daniel Snyder
Law Offices of Charles M. Tebbutt, P.C.
941 Lawrence St.
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Timothy Bechtold
Bechtold Law Firm, PLLC
PO Box 7051
Missoula, MT 59807

Re: Buffalo Field Campaign v. U.S. Department of the Interior, 9:19-cv-00166

Dear Messrs. Snyder and Bechtold:

On June 20, 2018, Mr. Darrell Geist, on behalf of Buffalo Field Campaign, filed a FOIA request seeking the following:

[A]ll records from the Office of the Secretary concerning the following subject matter:

1. Bison management in Yellowstone National Park and the state of Montana.
2. The Interagency Bison Management Plan.
3. Reintroducing bison from Yellowstone National Park to American Indian reservations or elsewhere.

The time period for the requested records is March 1, 2017 to June 20, 2018.

Mr. Geist's request was received in the Office of the Secretary FOIA office on June 20, 2018 and acknowledged on July 19, 2018 with the control number of **OS-2018-01317**.

We are writing today to provide a partial response to this request. During this time period 557 pages were reviewed, with 224 pages found to be responsive while, 333 pages were found to be non-responsive. Please find attached one file consisting of 224 pages.

In reviewing the released records, you will find that the government has made certain redactions pursuant to the deliberative process of FOIA Exemption 5, found at 5 U.S.C. § 552(b)(5).

Daniel Snyder and Timothy Bechtold

Exemption 5

Deliberative Process Privilege

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, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting 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 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.

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.

Kasie Durkit, Attorney-Advisor, in the Office of the Solicitor was consulted regarding this partial denial.

Additional records for Mr. Geist's request will arrive under separate cover.

If you have any questions about our response to your request, you may contact Mark Smith, Assistant United States Attorney, by phone at (406) 247-4667 or by email at mark.smith3@usdoj.gov.

Sincerely,

Tonya Kirksey
Office of the Secretary

Electronic Enclosures