

**Exhibit 1**

# DOI-BLM-2021-005167 Request Details

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Submitted



Evaluation



Assignment



Processing



Closed

## Contact Information

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<b>Full Name</b>	American Wild Horse Campaign American Wild Horse Campaign
<b>Organization</b>	American Wild Horse Campaign
<b>Email Address</b>	foia@wildhorsepreservation.org
<b>Phone Number</b>	1-877-853-4696
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<b>Address Line 2</b>	
<b>City</b>	Davis
<b>State/Province</b>	CA
<b>Zip Code/Postal Code</b>	95616

## Request Information

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<b>Agency</b>	BLM New Mexico State Office
<b>Will Pay Up To</b>	\$0.00
<b>Date Submitted</b>	07/22/2021
<b>Estimated Date of Completion</b>	09/10/2021
<b>Fee Category</b>	Other
<b>Request Track</b>	Complex
<b>Request Phase</b>	Assignment
<b>Final Disposition</b>	Undetermined

## Additional Information

**ADDITIONAL INFORMATION**

**Relevant park or refuge or site or other location** N/A

**Description**

**Description**

This request for records is made under the federal Freedom of Information Act (“FOIA”), 5 U.S.C., sec. 552, by the American Wild Horse Campaign (“AWHC”), a nonprofit organization dedicated to educating the public about issues related to wild horses and burros. This request is directed at obtaining an electronic copy of all emails, faxes, letters, memoranda, proposals, reports, contracts, notes, telephone conversations (including text messages), and any other records generated between all Public Affairs staff, all Wild Horse and Burro Specialists, and all Field Managers under the jurisdiction of the Bureau of Land Management’s (“BLM”) Oklahoma Field Office with James Galloway or Jimmy Galloway. The time frame for this request is January 1, 2020 and the date that this FOIA request is processed.

**Request Expedited Processing**

**Made Request?** No

**Request a Fee Waiver**

**Made Request?** Yes

**Expedited Justification** Please see attachments.

**Supporting Files**

Download	Attached File Name	Size (MB)	File Type
<input type="checkbox"/>	Exhibit A - Comms.pdf	0.0938	Adobe PDF Document
<input type="checkbox"/>	Request for Fee Waiver.pdf	0.0928	Adobe PDF Document

## II. Request for Fee Waiver

AWHC requests a fee waiver pursuant to FOIA. FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA's fee waiver requirement is "liberally construed." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005).

Under FOIA, a party is entitled to a fee waiver when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

Thus, BLM must consider the following factors to determine whether a request is in the public interest: (1) How the subject of the requested records concerns "the operations or activities of the Federal government"; and (2) How the disclosure is "likely to contribute significantly to public understanding of [government] operations or activities." 43 C.F.R. § 2.48(a)(1) – (2) (Nov. 14, 2019). As shown below, AWHC meets each of these factors.

### **A. The Subject of This Request Concerns "The Operations and Activities of the Government."**

The subject matter of this request concerns the operations and activities of BLM. This FOIA request will provide AWHC and the public with records that could provide crucial insight into matters that affect wild horse and burro management. It is clear that wild horse and burro management includes specific and identifiable activities of the government. *Judicial Watch*, 326 F.3d at 1313 ("[R]easonable specificity is all that FOIA requires with regard to this factor") (internal quotations omitted). Thus, AWHC meets this factor.

### **B. Disclosure is "Likely to Contribute Significantly" to an Understanding of Government Operations or Activities.**

The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public. Disclosure of the requested records will allow AWHC to convey to the public information that is in the possession of BLM about how wild horses and burros are managed and about how they are

treated. Once the information is made available, AWHC will analyze it and present it in a manner that will meaningfully enhance the public's understanding of these issues. Thus, the requested records are likely to contribute to an understanding of government operations and activities. 43 C.F.R. § 2.48(a)(2) contains seven subfactors that must be considered by BLM when evaluating a fee waiver request. These seven subfactors are addressed in Exhibit A, attached.

Notably, the BLM has previously determined that AWHC qualifies for a fee waiver based on the following criteria:

1. The management of wild horses and burros on our public lands is well-established as a matter of legitimate public interest and concern.
2. The disclosure of the requested record would not be to our primary benefit, but would be to the primary benefit of the general public.
3. As a 501(c)(3) nonprofit organization, AWHC is not seeking these records for any commercial use, and therefore we request that all review fees be waived entirely.
4. The disclosure of the information requested will help better inform the American public about the operations of our government, specifically the federal wild horse and burro program.
5. The AWHC is focused on public education, and all materials and information requested will be disseminated to the public for this purpose. With our mailing list and strong social media presence, which includes a website and Facebook page, the AWHC represents upwards of 1 million citizens.

A sampling of the public education conducted by AWHC can be found at <https://americanwildhorsecampaign.org>. AWHC's public education efforts include:

- Publishing news and alerts on our website and news blog.
- Disseminating a weekly e-newsletter with news and alerts.
- Providing information to the media about wild horse and burro issues. AWHC is often quoted by the media on this subject.

Thank you for your prompt attention to this request. If you have any questions, please contact Brieanah Schwartz at (540) 216-0161 or [brieanah@americanwildhorsecampaign.org](mailto:brieanah@americanwildhorsecampaign.org).

## Exhibit A

Supplemental Information for Freedom of Information Act Requests Addressing the Seven Subparts of 43 C.F.R. § 2.48(a)(2)(i)-(vii) (November 14, 2019).

1. **How disclosure is likely to contribute significantly to public understanding of those operations or activities, including:**
  - a. **How the contents of the records are meaningfully informative. The disclosure of information that is already readily available to you from other sources or easily accessible to the public, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding and the bureau informs you of where the requested information is already available. 43 C.F.R. § 2.48(a)(2)(i).**

The documents and information contained therein that are being requested are not readily available to AWHC or easily accessible to the public. The disclosure of the records will provide much-needed information regarding the Bureau of Land Management's (BLM) partners in its wild horse and burro program. Disclosure of the requested records is unquestionably in the public interest and critical to enhancing the public's understanding of the Wild Horse and Burro Program.

- b. **What the logical connection is between the content of the records and the operations or activities of the Federal government. 43 C.F.R. § 2.48(a)(2)(ii).**

The requested records will be used to inform the public about the Wild Horse and Burro Program and those which the agency partners with in order to further its management goals. All documents and information will be used to ensure the public has a better understanding of the Wild Horse and Burro Program. Specifically, the requested information will inform the public about the BLM's relationship with partners in wild horse management.

- c. **How disclosure will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to your individual understanding. 43 C.F.R. § 2.48(a)(2)(iii).**

The requested records will contribute to public understanding of wild horse and burro management. This is of interest to a reasonably broad segment of the public. AWHC will use the information they obtain from the disclosed records to educate the public. *See W. Watersheds Proj. v. Brown*, 318 F. Supp. 2d 1036, 1040 (D. Idaho 2004) (“... find[ing] that WWP adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how ... management strategies employed by the BLM may adversely affect the environment.”).

Through AWHC's synthesis and dissemination, disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. *Ettlinger v. FBI*, 596 F. Supp. at 876 (benefit to a population group of some size distinct from the requester alone is sufficient); *Carney v. Dep't of Justice*, 19 F.3d 807, 815 (2d Cir. 1994), *cert. denied*, 513 U.S. 823 (1994) (applying "public" to require a sufficient "breadth of benefit" beyond the requester's own interests); *Cnty. Legal Servs. v. Dep't of Hous. & Urban Dev.*, 405 F.Supp.2d 553, 557 (E.D. Pa. 2005) (in granting fee waiver to community legal group, court noted that while the requester's "work by its nature is unlikely to reach a very general audience," "there is a segment of the public that is interested in its work"). The public does not currently have an ability to easily evaluate the requested records that are not currently in the public domain –e.g., in the docket on regulations.gov. As the Ninth Circuit observed in *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1286 (9th Cir. 1987), "[FOIA] legislative history suggests that information [has more potential to contribute to public understanding] to the degree that the information is new and supports public oversight of agency operations...."

An integral part of AWHC's mission is to both educate the public about wild horses and burros and increase the public's awareness of and appreciation for wild horses and burros. The disclosure of the requested information will be used to further the public's understanding of the Wild Horse and Burro Program. Please visit [www.americanwildhorsecampaign.org](http://www.americanwildhorsecampaign.org) to obtain a better understanding how information obtained by AWHC is disseminated to the public at large.

- d. Your expertise in the subject area as well as your identity, vocation, qualifications, and your plan to disclose the information in a manner that will be informative to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to furthering your individual understanding. 43 C.F.R. § 2.48(a)(2)(iv).**

AWHC is a nonprofit organization dedicated to educating the public about issues related to wild horses and burros. An integral part of AWHC's mission is to increase the public's awareness of and appreciation for wild horses and burros as an integral part of America's ecological and cultural landscape and to work through public awareness and educational programs to keep wild horses and burros wild and free on our public lands.

- e. Your ability and intent to disseminate the information to a reasonably broad audience of persons interested in the subject (for example, how and to whom you intend to disseminate the information). If we have categorized you as a representative of the news media under § 2.38, we will presume you have this ability and intent. 43 C.F.R. § 2.48(a)(2)(v).**

AWHC and its representatives regularly communicate with the media and public about BLM activities and operations and specifically regarding the management of wild horses and burros. The BLM has already determined that AWHC “*has the qualifications and expertise to analyze and disseminate the documents or any subsequent analyses to the public at large.*” The disclosure of the information will contribute to the public understanding of BLM operations and activities.

AWHC plans to review all documents and information received as a result of this request and create and disseminate reports to the public, media, and Congress that illuminate BLM’s management of wild horses and burros. AWHC also disseminates information through our e-newsletters, website, and social media network pages. This will in turn further the public understanding of BLM operations and activities.

**f. Whether the records would confirm or clarify data that has been released previously. 43 C.F.R. § 2.48(a)(2)(vi).**

As mentioned above, the requested records and information contained therein are not available to the public. The disclosure of the records requested will provide both much-needed information regarding the BLM’s partners in the Wild Horse and Burro Program.

**g. How the public's understanding of the subject in question will be enhanced to a significant extent by the disclosure. 43 C.F.R. § 2.48(a)(2)(vii).**

The requested information will enhance the public’s understanding of BLM actions and specifically, of those actions where the BLM works closely with partners to further its management objectives. The requested information will be necessary to inform the public’s understanding of the subject and the disclosure of the requested information will clearly significantly enhance the public’s understanding of the BLM’s actions.