

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICANS FOR PROSPERITY FOUNDATION)
4201 Wilson Boulevard, Suite 1000)
Arlington, VA 22203,)

Plaintiff,)

v.)

U.S. DEPARTMENT OF THE INTERIOR)
1849 C Street, N.W.)
Washington, D.C. 20240;)

Defendant.)

COMPLAINT EXHIBIT 6



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington D.C. 20240



September 27, 2023

Letter via email at KSchmidt@afphq.org.

Kevin Schmidt
Americans for Prosperity Foundation
1310 North Courthouse Road, 7th Floor
Arlington, VA 22201

Dear Kevin Schmidt:

The United States Fish and Wildlife Service (FWS) FOIA office received your Freedom of Information Act (FOIA) request, dated 12/16/2021, and assigned it control number DOI-FWS-2022-001183. Please cite this number in any future communications with our office regarding your request. You requested internal and external communications of Martha Williams, FWS Director, Cynthia Martinez, Chief of National Wildlife Refuge System, and Sara Boario, Regional Director Alaska with the following keywords:

- A. (“Arctic National Wildlife Refuge” OR “ANWR” OR “Coastal Plain”) AND (“lease sale” OR “cancel” OR “cancellation”)
- B. (Arctic National Wildlife Refuge” OR “ANWR” OR “Coastal Plain”) AND (“NEPA” OR “National Environmental Policy Act”)
- C. “Tax Cuts and Jobs Act” OR “TCJA” OR “Tax Act” OR “PL 115-97” OR “Public Law 115-97”

Fee Category and Fee

We have classified you as a representative of the news media. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. [See 43 C.F.R. § 2.39](#). If, after taking into consideration your fee category entitlements, our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. [See 43 C.F.R. § 2.37\(g\)](#). Since we do not anticipate any duplication cost or the duplication cost would be less than \$50, there is no need to address your fee waiver request.

Multitrack Processing

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that would generally take one to five workdays to process. The Normal track is for requests that

would generally take six to twenty workdays to process. The Complex track is for requests that would generally take twenty-one to sixty workdays to process. The Extraordinary track is for requests that would generally take more than sixty workdays to process. The Expedited track is for requests that have been granted expedited processing, which are processed as soon as practicable. Within each track, requests are usually processed on a first-in, first-out basis.

Your request falls into the Complex processing track. There are 160 requests pending ahead of yours in this processing track. Because we will need to search for and collect requested records from field facilities or other units that are separate from the office processing the request, we are taking a 10-workday extension under [43 C.F.R. § 2.19](#). We therefore expect that we will dispatch a determination to you by October 27, 2023.

Expedited Processing Denial—[43 C.F.R. § 2.20](#)

You have asked for expedited processing of your FOIA request. The Department's FOIA regulations state that a bureau will provide expedited processing when a requester demonstrates a compelling need for the records by explaining in detail how the request meets one or both of the criteria below and certifying the explanation is true and correct to the best of the requester's knowledge and belief. The two criteria are as follows:

- (1) Failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- (2) There is an urgency to inform the public about an actual or alleged government activity and the request is made by a person primarily engaged in disseminating information. (The requested information must be the type of information that has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story that concerns a matter of public exigency. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news.)

[43 C.F.R. § 2.20](#).

Your request does not contain enough evidence to support either of these criteria because it does not show evidence that it poses an imminent threat to life and does not show that the information has a particular value that will be lost if not disseminated quickly. Your request for expedited processing therefore has been denied.

Appeal Rights

You may appeal the denial of expedited processing 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 as soon as possible after this communication. Appeals arriving or delivered after 5 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 this response is in error. You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and FWS 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, DC 20240
Attn: FOIA/Privacy Act Appeals Office
Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

If you have any questions, you may contact me by email at stacey_cummins@fws.gov or by phone at 303-236-4473.

Sincerely,

Stacey Cummins
Acting FWS FOIA Officer