

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

WESTERN VALUES PROJECT :  
704C East 13th Street- Suite 568 :  
Whitefish, MT 59937 :

Plaintiff, :

v. : Civil Action No. \_\_\_\_\_

U.S. DEPARTMENT OF THE INTERIOR :  
1849 C Street, NW :  
Washington, DC 20240 :

Defendant. :

**COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, as well as agency FOIA regulations, 43 CFR § 2 *et seq.* challenging the failure of the United States Department of the Interior ("Interior") to fulfill the request for information made by Western Values Project.

2. This case seeks declaratory relief that defendant is in violation of the FOIA for failing to fulfill plaintiff's request for records, and injunctive relief that defendant immediately and fully comply with plaintiff's requests under the FOIA.

**JURISDICTION AND VENUE**

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 702, which gives the Court jurisdiction over agency actions where an aggrieved party has suffered wrong within the meaning of a "relevant statute," here the FOIA. This Court

also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 703, 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

4. Plaintiff Western Values Project is a public interest organization that gives a voice to Western values in the national conversation about energy development and public lands conservation. Western Values Project uses the information it gathers as well as its analysis of it, to educate the public through reports, press releases or other media. Western Values Project also makes the material it gathers available on its public website.

5. Defendant Interior is an agency within the meaning of 5 U.S.C. § 552(f). Defendant Interior is the federal agency with possession and control of the records responsive to plaintiff's requests and is responsible for fulfilling the FOIA request of plaintiff.

### **STATUTORY FRAMEWORK**

#### **The Freedom of Information Act**

6. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

7. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request and of the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

8. An agency must respond to a FOIA appeal within 20 working days, notifying the appealing party of the agency's determination to either release the withheld records or uphold the denial. 5 U.S.C. § 552(a)(6)(A)(ii).

9. In “unusual circumstances,” an agency may delay its response to a FOIA request or appeal, but must provide notice and must also provide “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B).

10. This Court has jurisdiction, upon receipt of a complaint, “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” 5 U.S.C. § 552(a)(4)(B).

11. The FOIA provides a mechanism for disciplinary action against agency officials who have acted inappropriately in withholding records. Specifically, when requiring the release of improperly withheld records, if the court makes a written finding that “the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously,” a disciplinary investigation is triggered. 5 U.S.C. § 552(a)(4)(F).

12. The Interior Department has FOIA regulations mandating its requirements to respond to FOIA requests. 43 C.F.R. § 2 *et. seq.*

**FACTS GIVING RISE TO PLAINTIFF’S CLAIMS FOR RELIEF**

13. By Interior's internet FOIA platform on January 19, 2017, plaintiff submitted a FOIA request to Interior seeking records used or compiled to inform the development of five national monument proclamations issued by President Obama pursuant to the Antiquities Act, since January 31, 2014. The five national monuments were 1.) Bears Ears National Monument (Utah); 2.) Gold Butte National Monument (Nevada); 3.) Browns Canyon National Monument (Colorado); 4.) Katahdin Woods and Waters National Monument (Maine); and 5.) Cascade-Siskiyou National Monument (Oregon/Washington). A copy of this request is attached as Exhibit A.

14. The request stated that plaintiff sought scientific studies, scientific data, agency studies, agency management plans, maps, photos, references, testimony, public comments, Congressional input, legal analysis, or other such information used to develop the monument designations since January 1, 2014.

15. By letter dated January 24, 2017, Interior acknowledged plaintiff's request and assigned it request number OS-2017-00207. Interior classified plaintiff as a "media use requester" for fee purposes. A copy of this letter is attached as Exhibit B.

16. As of the date of the filing of this Complaint, plaintiff has received no responsive records nor any further communications from defendant concerning this request.

## **PLAINTIFF'S CLAIMS FOR RELIEF**

### **CLAIM ONE**

#### **(Failure to Conduct an Adequate Search)**

17. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

18. Plaintiff submitted a request that reasonably described the records sought and was made in accordance with Interior's published rules.

19. In response, defendant has failed to conduct a search reasonably calculated to uncover all responsive agency records.

20. Therefore, defendant has violated the FOIA's mandate to search for responsive records. 5 U.S.C. §552(a)(3)(D).

21. Plaintiff is entitled to injunctive and declaratory relief with respect to the search for the requested records.

**CLAIM TWO**  
**(Failure to Produce Records Under the FOIA)**

22. Plaintiff realleges and incorporates by reference all preceding paragraphs.

23. Plaintiff properly asked for records within defendant's control.

24. Plaintiff is entitled by law to access to the records requested under the FOIA, unless defendant makes an explicit and justified statutory exemption claim.

25. Defendant has not produced all the records responsive to plaintiff's FOIA request.

26. Therefore, defendant has violated the FOIA's mandate to release agency records to the public by failing to release the records as plaintiff specifically requested. 5 U.S.C. §§ 552(a)(3)(A), 552(a)(4)(B).

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff respectfully requests that this Court:

(1) Declare that defendant has violated the FOIA and agency regulations by failing to conduct an adequate search for records responsive to plaintiff's FOIA request;

(2) Order the defendant to immediately conduct and document an adequate search for responsive records as dictated by plaintiff's request;

(3) Declare that the defendant has violated the FOIA by failing to lawfully satisfy plaintiff's FOIA request;

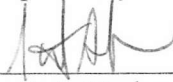
(4) Order the defendant to release all records responsive to plaintiff's FOIA request;

(5) Award plaintiff his reasonable attorney fees and litigation costs in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and

(6) Grant such other and further relief as the Court may deem just and proper.

May 24, 2017

Respectfully submitted,



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Scott A. Hodes  
(D.C. Bar No. 430375)  
P.O. Box 42002  
Washington, D.C. 20015  
Phone (301) 404-0502  
Fax (413) 641-2833  
infoprivacylaw@yahoo.com

Attorney for Plaintiff

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

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Civil Action No. \_\_\_\_\_

# Exhibit A

Submitted via Webform

<https://www.doi.gov/foia/foia-request-form>

January 19, 2017

## **FOIA REQUEST**

Dear Records Request Officer:

Pursuant to the Freedom of Information Act, I request access to and copies of any information used or compiled to inform the development of the following national monument proclamations issued by President Obama pursuant to the Antiquities Act, since January 1, 2014.

Bears Ears National Monument (Utah)  
Gold Butte National Monument (Nevada)  
Browns Canyon National Monument (Colorado)  
Katahdin Woods and Waters National Monument (Maine)  
Cascade-Siskiyou National Monument (Oregon/Washington)

*This should include, but is not limited to* scientific studies, scientific data, agency studies, agency management plans, maps, photos, references, testimony, public comments, Congressional input, legal analysis, or other such information used to develop these monument designations since January 1, 2014.

If there are costs associated with this request, please let me know and I can submit payment promptly.

If possible, I would prefer to receive this information electronically via e-mail at [csaeger@westernvaluesproject.org](mailto:csaeger@westernvaluesproject.org).

If records must be sent by mail, please send to:

Western Values Project  
ATTN: Chris Saeger  
704C East 13th Street, Suite 568  
Whitefish, MT 59937

If you have questions or need additional information from me, please feel free to call me at 406-438-1918.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act.

Thank you for your assistance.



Sincerely,  
Chris Saeger

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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704C East 13th Street- Suite 568  
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Plaintiff,

v.

U.S. DEPARTMENT OF THE INTERIOR  
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Exhibit B



United States Department of the Interior  
OFFICE OF THE SECRETARY  
Washington, DC 20240

IN REPLY REFER TO:  
7202.4-OS-2017-000207

January 24, 2017

Via email: [csaeger@westernvaluesproject.org](mailto:csaeger@westernvaluesproject.org)

Chris Saeger  
Western Values Project  
704C East 13<sup>th</sup> Street, Suite 568  
Whitefish, MT 59937

Dear Chris Saeger:

On January 19, 2017, you filed a Freedom of Information Act (FOIA) request seeking the following:

[C]opies of any information used or compiled to inform the development of the following national monument proclamations issued by President Obama pursuant to the Antiquities Act, since January 1, 2014.

- Bears Ears National Monument (Utah)
- Gold Butte National Monument (Nevada)
- Browns Canyon National Monument (Colorado)
- Katahdin Woods and Waters National Monument (Maine)
- Cascade-Siskiyou National Monument (Oregon/Washington)

[I]nclude, but is not limited to scientific studies, scientific data, agency studies, agency management plans, maps, photos, references, testimony, public comments, Congressional input, legal analysis or other such information used to develop these monuments designations since January 1, 2014.

Your request was received in the Office of the Secretary FOIA office on January 23, 2017, and assigned control number **OS-2017-00207**. Please cite this number in any future correspondence or communications with the Office of the Secretary regarding your request.

We have classified your request as a "media use request." As a "media use requester" you will not be charged for our search or review costs and are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. See 43 C.F.R. § 2.39. As a matter of policy, however, the Department of the Interior does not bill requesters for FOIA fees incurred in processing requests when their fees do not exceed \$50.00 because the cost of collection would be greater than the fee collected. See 43 C.F.R. § 2.49(a)(1).

Chris Saeger

You can expect to hear from us promptly regarding the outcome of this search.


You have asked for copies of agency records. According to our regulations, you may choose the format of disclosure for such records. Unless you specify otherwise, the Office of the Secretary will provide copies of responsive records on a CD-ROM disk as scanned PDF images when the responsive records exceed 50 pages.

Because we will need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, we are taking a 10-workday extension under 43 C.F.R. § 2.19. For the same reason, we are placing your request under the "Complex" processing track. See 43 C.F.R. § 2.15.

In the interim, if you have any questions regarding the status of your request, or any of the issues discussed in this letter, you may contact Cindy Sweeney by phone at (202) 513-0765, by fax at (202) 219-2374, by e-mail at [os\\_foia@ios.doi.gov](mailto:os_foia@ios.doi.gov) or by mail at U.S. Department of the Interior, 1849 C St, N.W., MS-7328 MIB, Washington, D.C. 20240.

You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka.

Sincerely,

  
Digitally signed by  
CLARICE JULKA  
Date: 2017.01.24  
11:26:03 -05'00'

Clarice Julka  
Office of the Secretary  
FOIA Officer