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

WESTERN WATERSHEDS PROJECT,
an Idaho non-profit corporation, 219 S River
Street, Suite 203, Hailey, ID 83333, P.O. Box
1770, Hailey, Idaho 83333,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE**, an agency of the United
States of America, 1400 Independence Ave.,
S.W., Washington, DC 20250; and the
UNITED STATES FOREST SERVICE, an
Administrative Agency of the United States
Department of Agriculture, 1400
Independence Ave., S.W., Washington, DC
20250,

Defendants.

Case No. 26-1133

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Freedom of Information Act &
Administrative Procedure Act Case

Plaintiff, Western Watersheds Project (WWP), alleges as follows:

INTRODUCTION

1. Pursuant to the Freedom of Information Act (FOIA or “the Act”), 5 U.S.C. § 552 *et. seq.*, or, in the alternative, the Administrative Procedure Act (APA), 5 U.S.C. § 701 *et. seq.*, WWP challenges the unlawful acts of the United States Forest Service (Forest Service) and the United States Department of Agriculture (DOA).

2. The purpose of FOIA is “to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language.” S.Rep. No. 813, 89th Cong., 1st Sess., 3 (1965). FOIA requires federal agencies, upon receiving a request, to disclose responsive records unless that information falls within one of nine narrow disclosure exemptions listed in the Act. *See* 5 U.S.C. § 552(a)(3)(A), (b).

3. Except in unusual circumstances, federal agencies generally must determine within twenty business days whether requested records are exempt from withholding and, if they are not,

the agency must “promptly disclose” the records to the requester. 5 U.S.C. §§ 552(a)(6)(A)(i), (3)(A), (6)(C)(i).

4. At issue in this case are five WWP FOIA requests seeking information regarding the destructive effects of livestock grazing on western public lands and wildlife. WWP requested this information as part of its continuing efforts to provide meaningful oversight of public land management decisions by Defendants.

5. Defendants have not made final determinations regarding WWP’s five requests.

6. The inaction of Defendants regarding WWP’s FOIA requests violates FOIA in numerous ways. First, Defendants have refused to release non-exempt responsive records to WWP’s FOIA requests. Second, Defendants failed to make timely determinations regarding WWP’s FOIA requests. Third, Defendants failed to provide WWP with estimated completion dates for WWP’s FOIA requests.

7. These failures amount to illegal, constructive withholding of responsive records to WWP’s FOIA requests and present a pattern, practice, or policy of failing to comply with the Act.

8. Each of these failures violates FOIA, or, in the alternative, the APA.

9. WWP works to protect public lands and the wildlife that inhabit them throughout the American West. Prompt access to the requested information is crucial to provide public oversight of Defendants’ activities in this regard. Defendants’ continuing failures to comply with FOIA materially prejudice WWP’s ability to fulfill its mission.

10. Defendants are unlawfully withholding information sought by Plaintiff, information to which WWP is entitled and for which no valid disclosure exemption applies.

11. Defendants violated the statutory mandates and deadlines imposed by FOIA through their failure to provide a final determination resolving WWP’s FOIA requests within the time and in the manner required by law.

12. WWP seeks a declaration from this Court that Defendants have violated FOIA, or in the alternative, the APA. WWP also seeks an injunction from this Court that directs Defendants to provide WWP with the requested records by a date certain.

JURISDICTION, VENUE AND BASIS FOR RELIEF

13. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331 because this action arises under FOIA, the APA, and the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

14. Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B) which provides venue for all FOIA cases in the District of Columbia.

15. Declaratory relief is appropriate under 28 U.S.C. § 2201.

16. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5 U.S.C. § 552(a)(4)(B).

PARTIES

17. WWP is a non-profit conservation organization founded in 1993 and headquartered in Hailey, Idaho. The organization is an IRS 501(c)(3) charitable entity. WWP has over 50,000 supporters and members, and works in eleven states across the West, including Idaho, Montana, Nevada, and Oregon—the states from which the FOIA requests at issue in this case originated. WWP seeks to protect public lands, wildlife, and other natural resources and ecological values of western watersheds, particularly by addressing impacts caused by domestic livestock grazing.

18. To further its mission, WWP often requests information regarding federal land management decisions and activities through FOIA. WWP compiles and analyzes the information it obtains through the requests and disseminates it to the public by: (1) presenting the material to its members and supporters, as well as members of other state and national conservation organizations, through its newsletter, social media platforms (which reach over 68,000 engaged followers and an average of approximately 1 million individuals per month), and email alerts

distributed to a list of over 9,400 subscribers; (2) presenting the materials at national and regional conferences; (3) participating in other public forums, such as local government hearings; (4) issuing press releases and presenting the information to national, regional and local media; (5) posting the information on its web site, which has over 16,000 views each month; and (6) publishing longer-form analysis through its Substack blog, which receives an average of 17,000 monthly views and provides timely, accessible analysis of FOIA-derived information, agency decision-making, and opportunities for public engagement.

19. The records sought by the FOIA requests at issue will help WWP inform and educate its members and the public about Defendants grazing management policies and decisions, and how they may affect the environment. The records at issue in this litigation are requested in support of WWP's ongoing efforts to improve protection of species and ecosystem health through oversight of Defendants' grazing management activities. The requested information has not been publicly disclosed and thus would significantly enhance public understanding concerning Defendants' grazing management activities.

20. WWP, its staff and members are directly injured by Defendants failure to comply with the statutory requirements of FOIA, and a favorable outcome in this litigation will redress such injuries. WWP brings this suit on behalf of itself, its staff and its members.

21. Defendant DOA is an agency of the executive branch of the United States government, and is in possession, custody, or control of the records sought by WWP, and as such, it is subject to FOIA pursuant to 5 U.S.C. § 552(f).

22. Defendant Forest Service is an administrative component of DOA, and is similarly in possession, custody, or control of the records sought by WWP, and as such, also subject to FOIA pursuant to 5 U.S.C. § 552(f).

STATUTORY BACKGROUND

Freedom of Information Act (FOIA)

23. FOIA’s “basic purpose” is “to open agency action to the light of public scrutiny.” *U.S. Dep’t of Just. v. Repts. Comm. for Freedom of Press*, 489 U.S. 749, 772 (1989) (quoting *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 272 (1976)). It was enacted “to ensure an informed citizenry, promote official transparency, and provide a check against government impunity.” *Transgender Law Ctr. v. Immigr. & Customs Enf’t*, 33 F.4th 1186 (9th Cir. 2022).

24. To achieve the goals of government transparency and accountability, FOIA “establish[es] a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language.” S. Rep. No. 813, at 3 (1st Sess. 1965); *see also* 5 U.S.C. §§ 552(a)–(b).

25. FOIA’s exemptions are discretionary, not mandatory, *Chrysler Corp. v. Brown*, 441 U.S. 281, 291 (1979), and withholding a record is permissible “only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption.” 5 U.S.C. § 552(a)(8)(A).

26. It is the agency’s burden to prove that one of FOIA’s nine exemptions applies to a record—or any portion of a record—it seeks to withhold. 5 U.S.C. § 552(a)(4)(B); *see also Schiller v. Nat’l Lab. Relations Bd.*, 964 F.2d 1205, 1207 (D.C. Cir. 1992) (“Under FOIA, the burden is on the agency to sustain its action.”) (internal quotation omitted), *Assembly of State of California v. U.S. Dep’t of Com.*, 968 F.2d 916, 920 (9th Cir. 1992) (“The government has the burden to prove that a requested document falls within one of FOIA’s exemptions.”).

27. Further, the agency may not carry its burden to demonstrate the applicability of an exemption with only conclusory and generalized allegations of confidentiality. *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 861 (D.C. Cir. 1980) (“We repeat, once again, that

conclusory assertions of privilege will not suffice to carry the Government’s burden of proof in defending FOIA cases.”); *see also Shannahan v. Internal Revenue Serv.*, 672 F.3d 1142, 1148 (9th Cir. 2012) (holding agencies may not justify nondisclosure with conclusory or generalized allegations of confidentiality); *Anderson v. Dep’t of Health & Human Services*, 907 F.2d 936, 941 (10th Cir. 1990) (“The district court must determine whether all of the requested materials fall within an exemption to the FOIA and may not simply conclude that an entire file or body of information is protected without consideration of the component parts.”).

28. The Act further states that an agency may “withhold information ... *only* if the agency reasonably foresees that disclosure would harm an interest protected” by the cited exemption. 5 U.S.C. § 552(a)(8)(A)(i) (emphasis added). This “foreseeable harm” constraint requires an agency invoking an exemption to “provide a focused and concrete demonstration of why disclosure of the particular type of material at issue will, in the specific context of the agency action at issue, actually impede those same agency [interests] going forward.” *Reporters Comm. for Freedom of Press v. Fed. Bureau of Investigations*, No. 20-5091, 2021 WL 2753938, at *12 (D.C. Cir. July 2, 2021) (internal quotation omitted); *see also Ctr. for Investigative Reporting v. U.S. Customs & Border Prot.*, 436 F. Supp. 3d 90, 106 (D.D.C. 2019) (explaining that the agency must “identify specific harms to the relevant protected interests that it can reasonably foresee would actually ensue from disclosure of the withheld materials” and “connect [such] harms in a meaningful way to the information withheld”) (cleaned up) (internal citation omitted).

29. Further, even within a privileged document, the agency must establish that all reasonably segregable portions of the document have indeed been segregated and disclosed. *Anderson*, 907 F.2d at 941. Agencies cannot simply redact entire records or pages if only a portion of the page or document is subject to an exemption. *Oglesby v. U.S. Dep’t of the Army*, 79 F.3d 1172, 1176 (D.C. Cir. 1996) (“If a document contains exempt information, the agency must still

release ‘any reasonably segregable portion’ after deletion of the nondisclosable portions.”) (quoting 5 U.S.C. § 552(b)). “[T]he exemptions to the FOIA do not apply wholesale. An item of exempt information does not insulate from disclosure the entire file in which it is contained, or even the entire page on which it appears.” *Arieff v. Dep’t of the Navy*, 712 F.2d 1462, 1466 (D.C. Cir. 1983).

30. FOIA also imposes strict deadlines on federal agencies. Within twenty working days of receiving a FOIA request, the agency must make a final decision that notifies the requestor of: (1) the scope of the documents that the agency will produce, (2) the scope of the documents that the agency believes exempt from disclosure, (3) the reasons for any withholdings, and (4) the requester’s right to appeal any adverse determination. 5 U.S.C. §§ 552(a)(3)(A), 552(a)(6)(A)(i).

31. Unless an agency properly establishes a different timeline for disclosing responsive records, FOIA’s mandate to make public records “promptly available” to a requester requires federal agencies to provide the responsive records within or shortly after the 20 business-day deadline. 5 U.S.C. § 552(a)(6)(A)(i).

32. Congress has set forth two narrow circumstances in which federal agencies may obtain more time to make the determination required by 5 U.S.C. § 552(a)(6)(A)(i). First, the agency may toll the statutory determination deadline for ten days to allow the agency to seek information from the requester. 5 U.S.C. § 552(a)(6)(A)(ii) (providing for up to a ten-day tolling period). Second, the agency may extend the twenty business-day deadline for an additional ten business days by providing a written notice to the requester that sets forth the “unusual circumstances”—a term that is defined by the Act—that justify the deadline extension and the date on which the agency expects to make the determination. 5 U.S.C. § 552(a)(6)–(B)(ii)–(iii).

33. When the agency notifies a requester of unusual circumstances and the need for additional time, the agency’s written notification “shall provide the person an opportunity to limit

the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request.” 5 U.S.C. § 552(a)(6)(B)(ii).

34. An agency’s failure to timely respond to a FOIA request is itself a violation of the statute, regardless of a request’s final outcome. 5 U.S.C. § 552(a)(6)(A)(ii); *see also Or. Nat. Desert Ass’n v. Gutierrez*, 409 F.Supp.2d 1237, 1248 (D. Or. 2006), *aff’d in part, rev. on other grounds, Or. Nat. Desert Ass’n v. Locke*, 572 F.3d 610 (9th Cir. 2009), *Our Children’s Earth Found. v. Nat’l Marine Fisheries Serv.*, 85 F.Supp.3d 1074, 1089-1090 (N.D. Cal. 2015).

35. FOIA requires federal agencies to acknowledge receipt of FOIA requests and provide requesters with the date of receipt, an individualized tracking number for each request that will take longer than ten days to process, and an estimated completion date on which the agency anticipates completing action on the request. 5 U.S.C. §§ 552(a)(7)(A), (B)(i), (ii). An agency’s failure to provide a FOIA requester with this information is itself a violation of the statute, regardless of a request’s final outcome. *Muttitt v. U.S. Cent. Command*, 813 F.Supp.2d 221, 231 (D.D.C., 2011) (finding an agency pattern of failure to provide estimated FOIA request completion dates is actionable).

36. A requestor has “exhausted his administrative remedies” and may bring a case in federal district court if the agency does not make a final decision on an appeal within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii), (C)(i).

37. A federal district court has jurisdiction “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).

38. If an agency can show that “exceptional circumstances” exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow

the agency additional time to complete its review of the records. 5 U.S.C. § 552(a)(6)(C)(i). Notably, the term “exceptional circumstances” does not include a delay that results from a predictable agency workload of FOIA requests, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests. 5 U.S.C. § 552(a)(6)-(C)(ii).

Administrative Procedure Act (APA)

39. The APA provides that a “person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702.

40. The term “agency action” includes “the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” *Id.* § 551(13).

41. A reviewing court shall “compel agency action unlawfully withheld or unreasonably delayed” and “hold unlawful and set aside agency action, findings, and conclusions found to be ... not in accordance with law.” *Id.* §§ 706(1), (2)(A); *see also id.* §§ 706(2)(C)-(D) (providing that courts shall hold unlawful and set aside agency action taken “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” or taken “without observance of procedure required by law”). “[A]n agency action must comply with the agency’s governing statutes and regulations,” and, if it does not comply, there are grounds for APA relief. *Bean v. Perdue*, 316 F. Supp. 3d 220, 227 (D.D.C. 2018); *see also, e.g., Am. Vanguard Corp. v. Jackson*, 803 F. Supp. 2d 8, 13-14 (D.D.C. 2011) (relying on, *inter alia*, *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)); *Fuller v. Winter*, 538 F. Supp. 2d 179, 186 (D.D.C. 2008).

42. Agency action arising under FOIA has also been held to be subject to judicial review under the APA. *See, e.g., Or. Nat. Desert Ass’n v. Gutierrez*, 409 F. Supp. 2d 1237, 1248 (D. Or. 2006) (finding that violation of FOIA’s decision deadline constitutes APA violation for an agency action that is not in accordance with the law).

43. The APA authorizes district courts to compel agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. § 706(1). District courts must also set aside any agency action found to be arbitrary, capricious, an abuse of discretion, not in accordance with law, or made without observation of required procedures. 5 U.S.C. § 706(2).

STATEMENT OF OPERATIVE FACTS

Regarding Request 2025-FS-R4-06804-F

44. On May 8, 2025, WWP’s Idaho Director, Greg LeDonne, submitted a FOIA request to the Sawtooth National Forest in Idaho via FOIA.gov, an online portal for FOIA requests.

45. The request sought records related to the livestock grazing program within the Sawtooth National Forest including allotment management plans, annual operating instructions, grazing permits and other paperwork, monitoring, environmental assessments and impact statements, communications, and payment records.

46. Mr. LeDonne received an automated email from FOIA.gov on May 8, 2025, confirming receipt of the request.

47. The request was ultimately assigned tracking number 2025-FS-R4-06804-F.

48. On May 12, 2025, a Forest Service FOIA Coordinator emailed Mr. LeDonne to acknowledge receipt of 2025-FS-R4-06804-F and request clarification.

49. On May 14, 2025, Mr. LeDonne replied to the Forest Service FOIA Coordinator by email and answered each of the questions regarding 2025-FS-R4-06804-F.

50. On May 15, 2025, the Forest Service FOIA Coordinator emailed Mr. LeDonne memorializing the agency’s clarified understanding of 2025-FS-R4-06804-F and stating “that every attempt will be made to respond to your request by June 12, 2025.”

51. Eight months later, on January 21, 2026, having received no records and no further communication, Mr. LeDonne emailed the Forest Service FOIA Coordinator requesting

information regarding the status of 2025-FS-R4-06804-F as well as an estimated completion date.

52. The Forest Service FOIA Coordinator responded the same day, January 21, 2026, indicating that the agency would “look into it” the following morning.

53. The following day, January 22, 2026, the Forest Service FOIA Coordinator responded that the agency had “received some responsive records to review” but it was uncertain if the search had been completed. The Forest Service FOIA Coordinator further stated that “a better ETA” would be provided after determining whether the agency’s search for responsive records had been completed.

54. Receiving no further response, on February 26, 2026, Mr. LeDonne sent another email to the Forest Service Coordinator requesting any updates or information regarding 2025-FS-R4-06804-F.

55. On February 27, 2026, the Forest Service FOIA Coordinator responded that the agency would work on 2025-FS-R4-06804-F the following week.

56. Mr. LeDonne has not received any further communication from the Forest Service regarding 2025-FS-R4-06804-F.

57. FOIA requires an agency to issue a final determination on a FOIA request within twenty business days from the date the request is received. 5 U.S.C. § 552(a)(6)(A)(i).

58. Defendant Forest Service failed to issue a final decision on 2025-FS-R4-06804-F within the time required by 5 U.S.C. § 552(a)(6)(A)(i) & (ii)(II).

59. Defendant Forest Service failed to provide a written notice to Plaintiff asserting that “unusual circumstances” prevented it from compliance with FOIA’s decision deadline and providing the date on which it expected to issue a final decision on 2025-FS-R4-06804-F. 5 U.S.C. § 552(a)(6)(B)(ii).

60. The deadline for issuing a final determination regarding 2025-FS-R4-06804-F has

elapsed.

61. As of the date of filing this lawsuit, Plaintiff has not received a final decision on 2025-FS-R4-06804-F.

62. As of the date of filing this lawsuit, Plaintiff has not received any of the records responsive to 2025-FS-R4-06804-F.

63. As of the date of filing this lawsuit, Plaintiff has not received an estimated completion date for 2025-FS-R4-06804-F.

64. The Forest Service has not shown that any of FOIA's nine exemptions to mandatory disclosure apply to the responsive information currently being withheld by the agency.

65. Because the Forest Service has not provided a final determination on 2025-FS-R4-06804-F, Plaintiff has not had cause to file an administrative appeal and therefore has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. §§ 552(a)(6)(A), (a)(6)(C).

Regarding Request 2025-FS-R1-07367-F

66. On June 9, 2025, WWP's Montana and Washington Director, Patrick Kelly, submitted a FOIA request via FOIA.gov to the Beaverhead-Deerlodge National Forest in Montana.

67. The request sought annual operating instructions for all grazing allotments on the Wisdom and Madison Ranger Districts.

68. Mr. Kelly received an automated email on June 9, 2025, confirming receipt of the request.

69. The request was ultimately assigned tracking number 2025-FS-R1-07367-F.

70. On July 11, 2025, Mr. Kelly emailed the Forest Service Washington FOIA Office requesting information on the status of 2025-FS-R1-07367-F.

71. A Forest Service Washington FOIA Office Coordinator responded the same day,

July 11, 2025, instructing Mr. Kelly to email the Forest Service Region 1 FOIA Office to inquire about the status of 2025-FS-R1-07367-F.

72. Mr. Kelly resubmitted his inquiry regarding the status of 2025-FS-R1-07367-F the same day, July 11, 2025, to the Forest Service Region 1 FOIA Office.

73. The Forest Service Region 1 FOIA Office did not respond to Mr. Kelly's July 11, 2025 inquiry.

74. Six months later, on December 8, 2025, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07367-F and requesting an estimated completion date.

75. Neither the Forest Service Region 1 FOIA Office nor the Forest Service Washington FOIA Office responded to Mr. Kelly's December 8, 2025, email.

76. Three months later, on February 11, 2026, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07367-F and requesting an estimated completion date.

77. Neither the Forest Service Region 1 FOIA Office nor the Forest Service Washington FOIA Office responded to Mr. Kelly's February 11, 2026, email.

78. On March 2, 2026, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07367-F and requesting an estimated completion date.

79. On March 4, 2026, a Forest Service FOIA Coordinator responded that the Wisdom Ranger District responsive records would be "finalized" by "early May" and that the agency would contact the Madison Ranger District to "get an estimate for release."

80. On March 9, 2026, Mr. Kelly emailed the Forest Service FOIA Coordinator noting that he had not received a response regarding the Madison Ranger District responsive records and

that no estimated completion date had been provided.

81. The Forest Service FOIA Coordinator did not respond to Mr. Kelly’s March 9, 2026, email.

82. FOIA requires an agency to issue a final determination on a FOIA request within twenty business days from the date the request is received. 5 U.S.C. § 552(a)(6)(A)(i).

83. Defendant Forest Service failed to issue a final decision on 2025-FS-R1-07367-F within 20 business days of submission as required by 5 U.S.C. § 552(a)(6)(A)(i).

84. Defendant Forest Service failed to provide a written notice to Plaintiff asserting that “unusual circumstances” prevented it from compliance with FOIA’s decision deadline and providing the date on which it expected to issue a final decision on 2025-FS-R1-07367-F. 5 U.S.C. § 552(a)(6)(B)(ii).

85. The deadline for issuing a final determination regarding 2025-FS-R1-07367-F has elapsed.

86. As of the date of filing this lawsuit, Plaintiff has not received a final decision on 2025-FS-R1-07367-F.

87. As of the date of filing this lawsuit, Plaintiff has not received any of the records responsive to 2025-FS-R1-07367-F.

88. As of the date of filing this lawsuit, Plaintiff has not received an estimated completion date for 2025-FS-R1-07367-F.

89. The Forest Service has not shown that any of FOIA’s nine exemptions to mandatory disclosure apply to the responsive information currently being withheld by the agency.

90. Because the Forest Service has not provided a final determination on 2025-FS-R1-07367-F, Plaintiff has not had cause to file an administrative appeal and therefore has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. §§ 552(a)(6)(A),

(a)(6)(C).

Regarding Request 2025-FS-R1-07852-F

91. On June 10, 2025, Mr. Kelly submitted a FOIA request via FOIA.gov to the Custer-Gallatin National Forest in Montana.

92. The request sought annual operating instructions, allotment management plans, grazing permits, monitoring data, notices of noncompliance, actual use forms, and certain communications related to the management of livestock on the Fishtail grazing allotment located in the Beartooth Ranger District.

93. Mr. Kelly received an automated email on June 10, 2025, confirming submission of the request.

94. The request was ultimately assigned tracking number 2025-FS-R1-07852-F.

95. On July 11, 2025 Mr. Kelly emailed the Forest Service Washington FOIA Office requesting information regarding the status of 2025-FS-R1-07852-F.

96. A Forest Service Washington FOIA Office Coordinator responded the same day, July 11, 2025, instructing Mr. Kelly to email the Forest Service Region 1 FOIA Office to inquire about the status of 2025-FS-R1-07852-F.

97. Mr. Kelly resubmitted his inquiry regarding the status of 2025-FS-R1-07852-F the same day, July 11, 2025, to the Forest Service Region 1 FOIA Office.

98. The Forest Service Region 1 FOIA Office did not respond to Mr. Kelly's July 11, 2025 inquiry.

99. Six months later, on December 8, 2025, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07852-F and requesting an estimated completion date.

100. Neither the Forest Service Region 1 FOIA Office nor the Forest Service

Washington FOIA Office responded to Mr. Kelly's December 8, 2025, email.

101. Three months later, on February 11, 2026, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07852-F and requesting an estimated completion date.

102. Neither the Forest Service Region 1 FOIA Office nor the Forest Service Washington FOIA Office responded to Mr. Kelly's February 11, 2026, email.

103. On March 2, 2026, Mr. Kelly sent another email to both the Forest Service Region 1 FOIA Office and the Forest Service Washington FOIA Office inquiring about the status of 2025-FS-R1-07852-F and requesting an estimated completion date.

104. Neither the Forest Service Region 1 FOIA Office nor the Forest Service Washington FOIA Office responded to Mr. Kelly's March 2, 2026, email.

105. FOIA requires an agency to issue a final determination on a FOIA request within twenty business days from the date the request is received. 5 U.S.C. § 552(a)(6)(A)(i).

106. Defendant Forest Service failed to issue a final decision on 2025-FS-R1-07852-F within 20 business days of submission as required by 5 U.S.C. § 552(a)(6)(A)(i).

107. Defendant Forest Service failed to provide a written notice to Plaintiff asserting that "unusual circumstances" prevented it from compliance with FOIA's decision deadline and providing the date on which it expected to issue a final decision on 2025-FS-R1-07852-F. 5 U.S.C. § 552(a)(6)(B)(ii).

108. The deadline for issuing a final determination regarding 2025-FS-R1-07852-F has elapsed.

109. As of the date of filing this lawsuit, Plaintiff has not received a final decision on 2025-FS-R1-07852-F.

110. As of the date of filing this lawsuit, Plaintiff has not received any of the records

responsive to 2025-FS-R1-07852-F.

111. As of the date of filing this lawsuit, Plaintiff has not received an estimated completion date for 2025-FS-R1-07367-F.

112. The Forest Service has not shown that any of FOIA's nine exemptions to mandatory disclosure apply to the responsive information currently being withheld by the agency.

113. Because the Forest Service has not provided a final determination on 2025-FS-R1-07852-F, Plaintiff has not had cause to file an administrative appeal and therefore has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. §§ 552(a)(6)(A), (a)(6)(C).

Regarding the Humboldt-Toiyabe Request

114. On July 2, 2025, WWP's Nevada Director, Paul Ruprecht, submitted a FOIA request by email to the Humboldt-Toiyabe National Forest in Nevada ("the Humboldt-Toiyabe Request").

115. The Humboldt-Toiyabe Request sought records related to the Forest Service's compliance with four Fish and Wildlife Service biological opinions regarding impacts to Lahontan cutthroat trout resulting from livestock grazing on the Humboldt-Toiyabe National Forest in Nevada.

116. On July 11, 2025, a Forest Service FOIA Coordinator emailed Mr. Ruprecht stating that the Humboldt-Toiyabe Request was being reviewed and processed, and that an official acknowledgment letter would be sent the following week.

117. Mr. Ruprecht did not receive an acknowledgment letter regarding the Humboldt-Toiyabe Request.

118. On July 28, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator seeking an update on the Humboldt-Toiyabe Request.

119. The same day, July 28, 2025, the Forest Service FOIA Coordinator responded that the Humboldt-Toiyabe Request responsive records were being gathered and that an “updated ETA” would be provided at a later date.

120. On August 18, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator inquiring when he could expect to receive the Humboldt-Toiyabe Request responsive records.

121. The Forest Service FOIA Coordinator responded the same day, August 18, 2025, stating that the responsive records were under review at the Forest Service’s Region 4 Office and “may [be sent] as soon as next week.”

122. On August 21, 2025, the Forest Service FOIA Coordinator emailed Mr. Ruprecht stating that the Humboldt-Toiyabe Request responsive records were still under review and that the agency would be back in touch with a “clearer ETA” the following week.

123. Receiving no further communications, on September 2, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator and requested contact information for the Forest Service Region 4 Office so that he could inquire directly about the status of the Humboldt-Toiyabe Request.

124. On September 9, 2025, the Forest Service FOIA Coordinator responded that the agency had requested a “new ETA” for the Humboldt-Toiyabe Request but did not provide contact information for the Forest Service Region 4 Office.

125. On September 11, 2025, the Forest Service FOIA Coordinator emailed Mr. Ruprecht stating that the agency had not heard anything back from the Forest Service Region 4 Office but could “see that [the Humboldt-Toiyabe Request] was still being worked on.”

126. On September 30, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator noting that nearly three months had passed since the date the Humboldt-Toiyabe Request was submitted and asking why the Forest Service Region 4 Office had not finished

processing the request.

127. The Forest Service FOIA Coordinator did not respond to Mr. Ruprecht's September 30, 2025 email.

128. On November 12, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator requesting an estimated completion date for the Humboldt-Toiyabe Request.

129. On November 18, 2025, the Forest Service FOIA Coordinator responded that the agency hoped to "get back to [Mr. Ruprecht] soon with your response in-hand" but providing no estimated completion date.

130. On January 22, 2025, Mr. Ruprecht emailed the Forest Service FOIA Coordinator again requesting an estimated completion date and contact information for the Forest Service Region 4 FOIA Office.

131. The Forest Service FOIA Coordinator did not respond to Mr. Ruprecht's January 22, 2025, email.

132. On February 12, 2026, Mr. Ruprecht again emailed the Forest Service FOIA Coordinator asking for an estimated completion date.

133. On February 17, 2026, the Forest Service FOIA Coordinator responded that a partial release would be sent "by the end of the week."

134. Mr. Ruprecht has not received any records responsive to the Humboldt-Toiyabe FOIA Request.

135. FOIA requires an agency to issue a final determination on a FOIA request within twenty business days from the date the request is received. 5 U.S.C. § 552(a)(6)(A)(i).

136. Defendant Forest Service failed to issue a final decision on the Humboldt-Toiyabe Request within 20 business days of submission as required by 5 U.S.C. § 552(a)(6)(A)(i).

137. Defendant Forest Service failed to provide a written notice to Plaintiff asserting that

“unusual circumstances” prevented it from compliance with FOIA’s decision deadline and providing the date on which it expected to issue a final decision on the Humboldt-Toiyabe Request. 5 U.S.C. § 552(a)(6)(B)(ii).

138. The deadline for issuing a final determination regarding the Humboldt-Toiyabe Request has elapsed.

139. As of the date filing of this lawsuit, Plaintiff has not received a tracking number for the Humboldt-Toiyabe Request.

140. As of the date of filing this lawsuit, Plaintiff has not received a final decision on the Humboldt-Toiyabe Request.

141. As of the date of filing this lawsuit, Plaintiff has not received any of the records responsive to the Humboldt-Toiyabe Request.

142. As of the date of filing this lawsuit, Plaintiff has not received an estimated completion date for the Humboldt-Toiyabe Request.

143. The Forest Service has not shown that any of FOIA’s nine exemptions to mandatory disclosure apply to the responsive information currently being withheld by the agency.

144. Because the Forest Service has not provided a final determination on the Humboldt-Toiyabe Request, Plaintiff has not had cause to file an administrative appeal and therefore has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. §§ 552(a)(6)(A), (a)(6)(C).

Regarding Request 2026-FS-R6-01122-F

145. On November 20, 2025, WWP’s Oregon Director, Adam Bronstein, submitted a request via FOIA.gov to the Umatilla National Forest in Oregon.

146. The request sought certain field records, communications, incidental take statements, letters of concurrence, informal consultation documents, determinations, directives,

and evaluations, biological assessments or opinions, monitoring data and results, reports of unauthorized grazing in riparian areas, reports of take or suspected take of endangered species, investigations of grazing-related habitat damage, enforcement records, take monitoring reports, compliance reviews, evaluations of monitoring data, and notices of violation or enforcement records for the Central Desolation and Indian grazing allotments on the Umatilla National Forest.

147. Mr. Bronstein received an automated email the same day, November 20, 2025, indicating that the request had been received.

148. The request was ultimately assigned tracking number 2026-FS-R6-01122-F.

149. On December 11, 2025, Mr. Bronstein sent an email to the Forest Service FOIA Coordinator requesting an estimated completion date.

150. On December 12, 2025, the Forest Service FOIA Coordinator replied stating that 2026-FS-R6-01122-F was “43rd in the processing que [sic]” but providing no estimated completion date.

151. On February 2, 2026, Mr. Bronstein emailed the Forest Service FOIA Coordinator again requesting an estimated completion date.

152. The Forest Service FOIA Coordinator responded the same day, February 2, 2026, stating that 2026-FS-R6-01122-F was now “number 27 in the que [sic]” and providing a “rough estimate of completion” of “at least another month.”

153. On March 2, 2026, Mr. Bronstein again emailed the Forest Service FOIA Coordinator requesting an estimated completion date.

154. The Forest Service FOIA Coordinator responded the following day, March 3, 2026, stating that it would “be a few more weeks” before the agency delivered the records responsive to 2026-FS-R6-01122-F.

155. Mr. Bronstein did not receive any further communication from the Forest Service

FOIA Coordinator.

156. FOIA requires an agency to issue a final determination on a FOIA request within twenty business days from the date the request is received. 5 U.S.C. § 552(a)(6)(A)(i).

157. Defendant Forest Service failed to issue a final decision on 2026-FS-R6-01122-F within 20 business days of submission as required by 5 U.S.C. § 552(a)(6)(A)(i).

158. Defendant Forest Service failed to provide a written notice to Plaintiff asserting that “unusual circumstances” prevented it from compliance with FOIA’s decision deadline and providing the date on which it expected to issue a final decision on 2026-FS-R6-01122-F. 5 U.S.C. § 552(a)(6)(B)(ii).

159. The deadline for issuing a final determination regarding 2026-FS-R6-01122-F has elapsed.

160. As of the date of filing this lawsuit, Plaintiff has not received a final decision on 2026-FS-R6-01122-F.

161. As of the date of filing this lawsuit, Plaintiff has not received any of the records responsive to 2026-FS-R6-01122-F.

162. As of the date of filing this lawsuit, Plaintiff has not received an estimated completion date for 2026-FS-R6-01122-F.

163. The Forest Service has not shown that any of FOIA’s nine exemptions to mandatory disclosure apply to the responsive information currently being withheld by the agency.

164. Because the Forest Service has not provided a final determination on 2026-FS-R6-01122-F, Plaintiff has not had cause to file an administrative appeal and therefore has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. §§ 552(a)(6)(A), (a)(6)(C).

Facts Applying to All Outstanding FOIA Requests

165. The filing of this lawsuit is necessary to compel Defendants to disclose all records that are responsive to WWP's FOIA requests.

166. WWP's claims presented herein are not insubstantial within the meaning of 5 U.S.C. § 552(a)(4)(E)(ii)(II).

167. No exceptional circumstances exist within the meaning of FOIA, 5 U.S.C. § 552(a)(6)(C), that would allow this Court to grant Defendants more time to review and disclose requested records.

168. Defendants have not exercised due diligence in searching for and releasing records responsive to WWP's FOIA requests. 5 U.S.C. § 552(a)(6)(C)(i).

169. The delays at issue in this case result from a predictable agency workload of FOIA requests. 5 U.S.C. § 552(a)(6)(C)(ii). Defendants have not made reasonable progress in reducing their backlogs of pending requests. *Id.*

170. The circumstances surrounding the withholdings raise questions regarding whether Defendants acted arbitrarily or capriciously with respect to the withholdings at issue in this case.

171. Based on the nature of WWP's professional activities, it will continue to employ FOIA's provisions for record requests to Defendants in the foreseeable future. Indeed, WWP has firm and definite plans to submit additional FOIA requests to Defendants in the near future. WWP's professional activities will be adversely affected if Defendants are allowed to continue violating FOIA's disclosure provisions. Unless enjoined and made subject to a declaration of WWP's legal rights by this Court, Defendants will continue to violate the rights of WWP to receive public records under FOIA.

172. WWP has been required to expend costs and to obtain the services of attorneys to prosecute this action.

CAUSES OF ACTION

COUNT I: FOIA Violation

Unlawful, Constructive Denial of FOIA Requests and Withholding of Information

173. WWP hereby incorporates by reference the allegations in the preceding paragraphs.

174. WWP has a statutory right to the records it seeks, which are “agency records” within the meaning of FOIA, and there is no legal basis for Defendants to assert that any of FOIA’s nine disclosure exemptions apply to the requested records. *See* 5 U.S.C. § 552(b)(1)-(9).

175. Defendants violated WWP’s rights under FOIA by failing to comply with the Act’s decision deadlines regarding WWP’s FOIA requests and thus constructively withheld non-exempt information responsive to the requests.

176. Based on the nature of WWP’s professional activities, it will continue to employ FOIA’s provisions for information requests to Defendants in the foreseeable future.

177. WWP’s professional activities will be adversely affected if Defendants are allowed to continue violating FOIA’s provisions.

178. Unless enjoined and made subject to a declaration of WWP’s legal rights by this Court, Defendants will continue to violate Plaintiff’s right to receive public records under FOIA.

179. WWP is entitled to reasonable costs of litigation, including attorneys’ fees and costs pursuant to FOIA. 5 U.S.C. § 552(a)(4)(E).

COUNT II: FOIA Violation

Decision Deadline Violations

180. WWP hereby incorporates by reference the allegations in the preceding paragraphs.

181. WWP has a statutory right to have Defendants process its requests in a manner that complies with FOIA. WWP’s rights in this regard were violated when the Defendants failed to make a determination on WWP’s requests by the deadlines imposed by FOIA. 5 U.S.C. §§

552(a)(6)(A)(i); 552(a)(6)(A)(ii).

182. Defendants are unlawfully withholding public disclosure of records sought by WWP, records which are “agency records” within the meaning of FOIA to which WWP is entitled, and for which no valid disclosure exemption applies.

183. Based on the nature of WWP’s professional activities, it will continue to employ FOIA’s provisions for information requests to Defendants in the foreseeable future.

184. WWP’s professional activities will be adversely affected if Defendants are allowed to continue violating FOIA’s decision deadlines.

185. Unless enjoined and made subject to a declaration of WWP’s legal rights by this Court, Defendants will continue to violate Plaintiff’s right to have its information requests processed as required by FOIA.

186. WWP is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA. 5 U.S.C. § 552(a)(4)(E).

COUNT III: FOIA Violation

Failure to Provide Tracking Number for the Humboldt-Toiyabe Request and Estimated Completion Dates for Plaintiff’s FOIA Requests.

187. WWP hereby incorporates by reference the allegations in the preceding paragraphs.

188. FOIA requires federal agencies to provide an individualized tracking number for each request that will take longer than ten days to process. 5 U.S.C. §§ 552(a)(7)(A), (B)(i).

189. Defendant Forest Service has never assigned a tracking number for the Humboldt-Toiyabe Request.

190. Defendant Forest Service has violated, and continues to violate, FOIA by failing to assign a tracking number for the Humboldt-Toiyabe Request.

191. FOIA requires federal agencies to provide the requester with information about the status of an agency’s response to a request, including an estimated date on which the agency will

complete action on the request. 5 U.S.C. § 552(a)(7)(B)(ii).

192. WWP repeatedly asked Defendants for estimated completion dates for WWP's requests. In so doing, WWP constructively invoked 5 U.S.C. §§ 552(a)(7)(A) and (B).

193. Defendants have repeatedly failed to provide reasonably accurate estimated completion dates for Plaintiff's FOIA requests.

194. Defendants have repeatedly violated, and continue to violate, FOIA by failing to provide reasonably accurate estimated completion dates for WWP's FOIA requests.

195. Based on the nature of Plaintiff's professional activities, it will continue to employ FOIA's provisions for information requests to Defendants.

196. Plaintiff's professional activities will be adversely affected if Defendants are allowed to continue violating FOIA's provisions.

197. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, Defendants will continue to violate Plaintiff's right to receive public records under FOIA.

198. WWP is entitled to reasonable costs of litigation and attorney fees pursuant to FOIA. 5 U.S.C. § 552(a)(4)(E).

COUNT IV: FOIA & APA Violation

Engaging in a Pattern, Practice or Policy of Unlawful Conduct: Failure to Provide Estimated Completion Dates for Plaintiff's FOIA Requests

199. WWP hereby incorporates by reference the allegations in the preceding paragraphs.

200. Defendants have adopted and are engaged in a pattern, practice, or policy of violating FOIA's procedural requirements by repeatedly refusing to provide reasonably accurate estimated completion dates as required by 5 U.S.C. § 552(a)(7)(B)(ii).

201. Defendants are required by FOIA and the APA to respond to public information requests in a manner that discharges their non-discretionary duties and complies with their statutory duties.

202. Defendants have engaged in a pattern, practice, or policy of violating FOIA by their failure to provide estimated completion dates for WWP's FOIA requests.

203. Defendants' patterns, practices, or policies of failing to provide the estimated completion date for FOIA requests violates the intent and purpose of the Act.

204. Defendants' patterns, practices, or policies for processing FOIA requests have resulted in violations of WWP's rights to the lawful implementation of the Act as alleged above.

205. Additionally, Defendants' patterns, practices, or policies for process FOIA requests are likely to result in future violations of the Act that will harm WWP and its members.

206. Defendants' patterns, practices, or policies of unlawful conduct are in violation of FOIA's clear requirement to provide the estimated completion date for FOIA requests and are likely to recur absent intervention by this Court.

207. Defendants' pattern, practice, or policy exists, whether formal or informal in nature.

208. FOIA imposes no limits on a court's equitable powers to enforce the terms of the Act, and this Court should exercise its equitable powers to compel Defendants to comply with the clear requirements of FOIA and prevent them from continuing to apply their unlawful FOIA pattern, practice, or policy.

209. WWP is entitled to a declaration that Defendants' actions violated FOIA and an injunction barring Defendants from violating FOIA in the future when responding to WWP's FOIA requests. Whether made under FOIA or the APA, declaratory and injunctive relief will clarify and settle the legal relations at issue and afford relief from the uncertainty and controversy giving rise to these proceedings.

210. Defendants' unlawful patterns, practices, or policies of violating FOIA when responding to WWP's FOIA requests entitles WWP to an award of reasonable attorney fees and other litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E) or 28 U.S.C. § 2412.

COUNT V (In the alternative to Counts III and IV): APA Violation

Failure to Comply with FOIA's Requirements

211. WWP hereby incorporates by reference the allegations in the preceding paragraphs.

212. Defendants have failed to comply with the mandates of FOIA by failing and/or refusing to provide WWP with estimated completion dates for WWP's FOIA requests and a tracking number for the Humboldt-Toiyabe Request.

213. WWP has been adversely affected and aggrieved by the Defendants' failure to comply with the mandates of FOIA. Defendants' failure and/or refusal to provide WWP with estimated completion dates for its FOIA requests and a tracking number for the Humboldt-Toiyabe Request has injured WWP's interests in public oversight of governmental operations and constitute an APA violation.

214. WWP has suffered a legal wrong as a result of the Defendants' failure to comply with the mandates of FOIA. Defendants' failure and refusal to provide WWP with the estimated completion dates for WWP's pending FOIA and a tracking number for the Humboldt-Toiyabe Request has injured WWP's interests in public oversight of governmental operations and constitutes an APA violation.

215. Defendants' failure and/or refusal to provide WWP with estimated completion dates for WWP's FOIA requests and a tracking number for the Humboldt-Toiyabe Request constitutes agency action unlawfully withheld and unreasonably delayed. 5 U.S.C. § 706(1).

216. Alternatively, Defendants' failure and/or refusal to provide WWP with estimated completion dates for WWP's FOIA requests and a tracking number for the Humboldt-Toiyabe Request is a violation of FOIA and is therefore arbitrary, capricious, or an abuse of discretion and not in accordance with law. 5 U.S.C. § 706(2).

217. Based on the nature of Plaintiff's professional activities, it will continue to employ

FOIA's provisions for information requests to Defendants.

218. Plaintiff's professional activities will be adversely affected if Defendants are allowed to continue to violate FOIA's provisions.

219. WWP is entitled to judicial review under the APA. 5 U.S.C. §§ 702, 706.

220. WWP is entitled to costs and reasonable attorney fees per EAJA. 28 U.S.C. § 2412.

REQUESTS FOR RELIEF

WHEREFORE, WWP requests that this Court:

1. Adjudge and declare that Defendants have violated FOIA—or in the alternative, the APA—for the reasons set forth above;
2. Order Defendants to comply with FOIA immediately by providing WWP all non-exempt public records responsive to WWP's FOIA requests;
3. Award WWP its reasonable attorneys' fees and litigation costs pursuant to FOIA, 5 U.S.C. § 552(a)(4)(E) or the Equal Access to Justice Act, 28 U.S.C. § 2412;
4. Expedite this action pursuant to 28 U.S.C. § 1657(a); and
5. Grant such further and additional relief as this Court may deem just and proper.

Respectfully submitted April 2, 2026.

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