



August 25, 2017

## FOIA REQUEST

Interior Department  
Office of the Secretary FOIA Officer  
Clarice Julka  
MS-7328, MIB  
1849 C Street, NW  
Washington, D.C. 20240

Bureau of Land Management  
IRM Governance Division  
Attn: FOIA, Washington Office Coordinators  
Ryan Witt  
MS-WO-640  
1849 C Street, NW  
Washington, D.C. 20240

Via Email: [os\\_foia@ios.doi.gov](mailto:os_foia@ios.doi.gov)

Via Email: [blm\\_wo\\_foia@blm.gov](mailto:blm_wo_foia@blm.gov)

**Re: Expedited Request for Records Relating to the Review of National Monuments**

Greetings:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and implementing regulations, 43 C.F.R. § 2.1 et seq., I request the following records:

- **The report on national monuments and the Antiquities Act given by Secretary of the Interior Ryan Zinke to the President of the United States on August 24, 2017, referred to in the Department of the Interior press release titled “Secretary Zinke Sends Monument Report to the White House”;<sup>1</sup> and**
- **Attachments, summaries, cover letters, communications, or other records relating to the report that the Department of Interior or Secretary Zinke gave to the White House, to members of Congress, to state officials, or to any other entities.**

This request is made on behalf of the Southern Utah Wilderness Alliance and Natural Resources Defense Council (collectively, “the Requesters” unless specified otherwise).

Note that we do not seek any records that have already been published and are in the public domain or records that DOI or BLM has provided to the Requesters pursuant to previous FOIA requests.

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<sup>1</sup> <https://www.doi.gov/pressreleases/secretary-zinke-sends-monument-report-white-house>

ROCKY MOUNTAIN 633 17<sup>TH</sup> STREET, SUITE 1600 DENVER, CO 80202

T: 303.623.9466 F: 303.623.8083 RMOFFICE@EARTHJUSTICE.ORG  
WWW.EARTHJUSTICE.ORG

For purposes of this request, “records” is consistent with the meaning of the term under FOIA. This includes, but is not limited to, documents of any kind, including electronic as well as paper documents, e-mails, writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), reports, consultations, papers, studies, notes, field notes, drawings, surveys, graphs, charts, photographs, videos, meeting notes or minutes, electronic and magnetic recordings of meetings, maps, GIS layers, GPS, UTM, LiDAR, CDs, and any other compilations of data from which information can be obtained.

Under FOIA, you are obligated to provide records in a readily-accessible electronic format and in the format requested. See, e.g., 5 U.S.C. § 552(a)(3)(B) (“In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.”). We request that you provide the responsive records in electronic .pdf format without any “profiles” or “embedded files.” Please do not provide the records in a single or “batched” .pdf file. To the extent that a subset of the requested records is readily available, please provide that subset immediately while you continue to search for additional records to complete your response.

If you decide to invoke a FOIA exemption in response to this request, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

In addition, if you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and mail the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

### **Relevant Legal Background on the Freedom of Information Act**

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). Congress amended FOIA with the Openness Promotes Effectiveness in Our National (OPEN) Government Act of 2007, 110 Pub. L. No. 175, 121 Stat. 2524 (to be codified at 5 U.S.C. § 552). In the Congressional findings to the OPEN Government Act, Congress found that “the American people firmly believe that our system of government must itself be governed

by a presumption of openness.” 110 Pub. L. No. 175 § 2(2). In addition, Congress found that “disclosure, not secrecy, is the dominant objective of [FOIA].” *Id.* § 2(4) (quoting *Dep’t of Air Force v. Rose*, 425 U.S. 352 (1976)). Thus, under FOIA, there is a “strong presumption in favor of disclosure.” *Id.* § 2(3) (quoting *Dep’t of State v. Ray*, 502 U.S. 164 (1991)).

In a March 19, 2009 memorandum to the heads of executive departments and agencies, the U.S. Attorney General underscored that agencies should release records requested under FOIA even if the agency might have a technical excuse to withhold them:

First, an agency should not withhold information simply because it may do so legally. I strongly encourage agencies to make discretionary disclosures of information. An agency should not withhold records merely because it can demonstrate, as a technical matter, that the records fall within the scope of a FOIA exemption.

Second, whenever an agency determines that it cannot make full disclosure of a requested record, it must consider whether it can make partial disclosure.

Memo. of Attorney General E. Holder (March 19, 2009).

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

### **REQUEST FOR EXPEDITED PROCESSING**

There is an urgent need to inform the public of Secretary Zinke’s recommendations and the implications of those recommendations on the fate of the national monuments subject to the review. News reports indicate that President Trump will act expeditiously on Secretary Zinke’s recommendations by signing an executive order that will alter the future management and protection of some of these widely-cherished national monuments.<sup>2</sup> This creates a critical and time-sensitive need to provide the requested records to the public to facilitate broad and informed public engagement concerning the monuments’ future status.

Further, any action the President takes via executive order will likely have immediate effect, and the BLM, which manages many or all of the monuments at issue, will respond accordingly by focusing its management priorities towards development and away from the current

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<sup>2</sup> [https://www.washingtonpost.com/news/energy-environment/wp/2017/08/24/interior-secretary-recommends-trump-alter-a-handful-of-national-monuments-but-declines-to-reveal-which-ones/?hpid=hp\\_hp-top-table-main\\_monuments-3pm%3Ahomepage%2Fstory&utm\\_term=.9ad0b7140119](https://www.washingtonpost.com/news/energy-environment/wp/2017/08/24/interior-secretary-recommends-trump-alter-a-handful-of-national-monuments-but-declines-to-reveal-which-ones/?hpid=hp_hp-top-table-main_monuments-3pm%3Ahomepage%2Fstory&utm_term=.9ad0b7140119); <http://thehill.com/policy/energy-environment/347794-zinke-wants-to-shrink-some-national-monuments>

preservation focus. There is an urgent need for public information about the immediate threats to the affected national monuments.

We thus ask for expedited processing of this request pursuant to 43 C.F.R. § 2.10 and § 2.20, and the Requesters will disseminate the information as a primary part of their organizations' missions.

The undersigned certifies that the reasons for seeking expedited review are true and correct to the best of my knowledge or belief.

Thank you for your prompt attention to this request. I look forward to your response as soon as possible, but not later than 20 days, as required by law. If you have any questions in this matter, please contact me at 303-996-9621.

Sincerely,

A handwritten signature in black ink, appearing to read "Heidi McIntosh". The signature is written in a cursive, flowing style.

/s/

Heidi McIntosh  
Managing Attorney