

March 19, 2020

Ms. Marietta ShortBull
FOIA Officer
U.S. Department of Interior
Bureau of Indian Affairs
1001 Indian School Road,
Room 312-D
Albuquerque, NM 87104

Re: Freedom of Information Act Request

Dear Ms. ShortBull:

This Freedom of Information Act request seeks production of:

- All public records including, but not limited to, all communications of any kind, type or form, such as written, digital, electronic (email), facsimile, audio, audio-visual, and internet (including via Skype, LinkedIn, Twitter, Facebook, Instagram, YouTube, WhatsApp, Messenger, WeChat, Tumblr, QQ, and other approved social media services used by the agency), that have been sent, dispatched and otherwise transmitted from, and/or received, collected, or held by, the U.S. Department of Interior Bureau of Indian Affairs, from January 1, 2014 through March 18, 2020, concerning:
 - The possible transfer, before 1-20-25, by the U.S. Department of Interior U.S. Fish and Wildlife Service, or by the United States Congress, of the lands, wildlife, natural resources of, and/or the water rights to, the National Bison Range, one of the oldest units of the National Wildlife Refuge System, to the Confederated Salish and Kootenai Tribes (“CSKT”), a federally recognized tribe of the Flathead Indian Reservation located in northwestern Montana, to be held in trust by the Secretary of the Interior, acting as the trustee, for the benefit of the CSKT; *and*
 - The possible execution, before 1-20-25, by the CSKT, of an annual funding agreement (“AFA”) with the U.S. Department of Interior Fish and Wildlife Service, pursuant to the Indian Self-Determination and Education Assistance Act (P.L. 93-638) setting forth specific functions the CSKT would perform in operating and maintaining the National

Bison Range;¹ and

- The January 29, 2018 Settlement Agreement reached between the U.S. Department of Justice, Environment and Natural Resources Division, on behalf of the U.S. Department of Interior, U.S. Fish and Wildlife Service (FWS), and Public Employees for Environmental Responsibility (“PEER”) in D.D.C., Case No. 1:16-CV-00966-TSC.² (This lawsuit, filed on 5-23-16, sought to enjoin the FWS from transferring the National Bison Range out of the National Wildlife Refuge System and into a trust held by the Secretary of the Interior for the benefit of the CSKT, without comprehensive National Environmental Policy Act (“NEPA”) or National Wildlife Refuge System Improvement Act evaluations having first been performed.)³

If there are any fees for searching or duplicating the records the production and delivery of which have been herein requested, please let us know the \$ amount thereof.

If you deny all or any part of this FOIA request, please cite each specific exemption upon which you based your denial of this request and/or refusal to produce and release the specific information sought, and notify

¹ See e.g., Department of the Interior, Office of the Secretary, *Notice – List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2020 Programmatic Targets*, 85 Fed. Reg. 12326, 12330 (March 2, 2020), at Sec. “E – Eligible Fish and Wildlife Service Programs,” “8. National Wildlife Refuge Operations and Maintenance,” <https://www.govinfo.gov/content/pkg/FR-2020-03-02/pdf/2020-04249.pdf> (listing the National Bison Range, Montana as a refuge and/or hatchery located within close proximity to a self-governance tribe); Department of the Interior, Office of the Secretary, *Notice – List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2018 Programmatic Targets*, 83 Fed. Reg. 10512, 10516 (March 9, 2018), at Sec. “E – Eligible Fish and Wildlife Service Programs,” “8. National Wildlife Refuge Operations and Maintenance,” <https://www.govinfo.gov/content/pkg/FR-2018-03-09/pdf/2018-04743.pdf> (listing the National Bison Range, Montana as a refuge and/or hatchery located within close proximity to a self-governance tribe); Department of the Interior, Office of the Secretary, *Notice – List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2016 Programmatic Targets*, 81 Fed. Reg. 25699, 25703 (April 29, 2016), at Sec. “E – Eligible Fish and Wildlife Service Programs,” “8. National Wildlife Refuge Operations and Maintenance,” <https://www.govinfo.gov/content/pkg/FR-2016-04-29/pdf/2016-10040.pdf> (listing the National Bison Range, Montana as a refuge and/or hatchery located within close proximity to a self-governance tribe); Department of the Interior, Office of the Secretary, *Notice – List of Programs Eligible for Inclusion in Fiscal Year 2014 Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs*, 79 Fed. Reg. 9747, 9751 (Feb. 20, 2014), at Sec. “E – Eligible Fish and Wildlife Service Programs,” “8. National Wildlife Refuge Operations and Maintenance,” <https://www.govinfo.gov/content/pkg/FR-2014-02-20/pdf/2014-03611.pdf> (listing the National Bison Range, Montana as a refuge and/or hatchery located within close proximity to a self-governance tribe).

² See PEER – Public Employees for Environmental Responsibility, *Lawsuit Settlement Charts New Course for Bison Range*, Press Release (Jan. 29, 2018), <https://www.peer.org/lawsuit-settlement-charts-new-course-for-bison-range/>.

³ See Edward O’Brien, *PEER Sues to Prevent Transfer of Bison Range Management to CSKT*, Montana Public Radio (May 24, 2016), <https://www.mtpr.org/post/peer-sues-prevent-transfer-bison-range-management-cskt>; Hannah Hess, *FWS Push for National Bison Range Transfer Sparks Lawsuit*, E&E Greenwire (May 23, 2016), https://www.peer.org/assets/clips/GREENWIRE_INTERIOR_FWS_Push_For_Bison_Range_Transfer_Sparks_Lawsuit.pdf.

us of appeal procedures under the applicable FOIA law and regulations.

We look forward to receiving your final response determination within the prescribed 20 working day statutory period.

If you have any questions regarding the handling of this request, please do not hesitate to contact us at: Office – (212) 644-9240; Cellular – (917) 565-1521.

Thank you, in advance, for your expeditious handling of this FOIA request.

Sincerely,

Lawrence A. Kogan

Lawrence A. Kogan
Managing Principal

Cc: Save the National Bison Range, LLC, MT
U.S. Department of Interior, Office of the Secretary
U.S. Department of Interior, Office of the Solicitor
U.S. Department of Interior, U.S. Fish and Wildlife Service
U.S. Department of Interior, Office of the Special Trustee